



PLANNING COMMISSION REGULAR SESSION AGENDA

Monday, February 13, 2023 - 7:00 PM

City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

All public meetings of the City of Newport will be held in the City Council Chambers of the Newport City Hall, 169 SW Coast Highway, Newport. The meeting location is accessible to persons with disabilities. A request for an interpreter, or for other accommodations, should be made at least 48 hours in advance of the meeting to Erik Glover, City Recorder at 541.574.0613, or e.glover@newportoregon.gov.

All meetings are live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190. Anyone wishing to provide written public comment should send the comment to publiccomment@newportoregon.gov. Public comment must be received four hours prior to a scheduled meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day. To provide virtual public comment during a city meeting, a request must be made to the meeting staff at least 24 hours prior to the start of the meeting. This provision applies only to public comment and presenters outside the area and/or unable to physically attend an in person meeting.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. CALL TO ORDER AND ROLL CALL

Commission Members: Bill Branigan, Bob Berman, Jim Patrick, Jim Hanselman, Gary East, Braulio Escobar, and John Updike.

2. APPROVAL OF MINUTES

2.A Approval of the Planning Commission Work Session Meeting Minutes of January 23, 2023.

[Draft PC Work Session Minutes 01-23-2023](#)

2.B Approval of the Planning Commission Regular Session Meeting Minutes of January 23, 2023.

[Draft PC Reg Session Minutes 01-23-2023](#)

3. CITIZENS/PUBLIC COMMENT

A Public Comment Roster is available immediately inside the Council Chambers. Anyone who would like to address the Planning Commission on any matter not on the agenda will be given the opportunity after signing the Roster. Each speaker should limit comments to three minutes. The normal disposition of these items will be at the next scheduled Planning Commission meeting.

4. ACTION ITEMS

4.A File 5-CUP-22: Final Order and Findings of Fact.

[Final Order and Findings of Facts](#)

5. PUBLIC HEARINGS

5.A File 5-Z-22 (Continuation): Public Hearing on Draft Ordinance No. 2202 - Short-Term Rental Work Group Recommendations.

[Staff Memorandum](#)

[Attachment A - Work Group Recommendation Letter, dated 9/30/22](#)

[Attachment B - Draft Ordinance No. 2202](#)

[Attachment C - Minutes from the 10/17/22 City Council Meeting](#)

[Attachment D - Notice of Public Hearing](#)

[Attachment E - 1/6/23 letter from Cheryl Connell](#)

[Attachment F - Draft minutes from 1/23/23 Planning Commission Work Session](#)

6. NEW BUSINESS

7. UNFINISHED BUSINESS

8. DIRECTOR COMMENTS

9. ADJOURNMENT

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
January 23, 2023
6:00 p.m.

Planning Commissioners Present: Bill Branigan, Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and John Updike.

Planning Commissioners Absent: Gary East (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri (*by video*), and Greg Sutton.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.

2. **New Business.**

A. **Review of Ordinance No. 2202, Implementing Short-Term Rental Ordinance Implementation Work Group Recommendations.** Tokos reviewed the staff memorandum and acknowledged the comments received from Cheryl Connell, the Fire Department, and the Finance Department. He reviewed the hotel/motel procedures and inspection protocols. Tokos then reviewed the request to add language on imposing a hard deadline for a phase out on vacation rentals outside of the overlay zone. He explained they couldn't add the hard deadline into the short term rental ordinance because that would affect the allowed uses of a property, which required a Measure 56 notice. Tokos noted if the Commission wanted to do this, they would have to do it by motion to prepare a separate ordinance. They couldn't comingle it with the Work Group's recommendations because a Measure 56 notice wasn't provided or required for the January 9, 2023 hearing. Tokos reported there were two members of the Work Group, Sandra Roumagoux and Jamie Michel, were in attendance at the meeting to answer questions.

Escobar wanted to hear from the Work Group to get their feedback on their recommendations. He also wanted Cheryl Connell to talk to the Commission about the concerns she raised about the overlay. Escobar also wanted to hear about the overlay and number of Short-Term Rental (STR) licenses, and the automatic extension of STR licenses to new owners.

Berman thought they needed to pursue the 10 year phase out. When reading the 2019 City Council minutes he speculated that this clause was not included because the Council had discussed in an executive session that there would be potential for a Measure 49 claim and that scared them off. Berman stated that the ordinance affected everybody in Newport but there hadn't been any Measure 49 claims. He suggested that the Commission set this aside now, because Measure 49 specifically said that there was only five years to file a claim from the time that the land use regulation was put in effect, which was done in 2019. Berman thought they should look at it the next year. If at that time there were no Measure 49 claims for anything having to do with STRs, they should take a look at it again.

Hanselman stated he didn't necessarily disagree with Berman. Listening to what Tokos said about what they could do within the law, they couldn't put in a time limit. Tokos clarified that they couldn't add the phase out to the ordinance that the Work Group forwarded. The statute was clear that if they were moving an ordinance forward that would have the effect of prohibiting a use that was otherwise allowed, which a hard phase out would do, then they were obligated to provide a very specific Measure 56 notice before the first hearing. The notice was intended to alarm people when government agencies were looking to prohibit use, and get them to show up at a hearing. Tokos explained if the Commission wanted to do a hard numbered phase out, they would have to do a motion to have staff prepare an ordinance and provide the required notice. Hanselman thought that under these guidelines he could drop the idea of phase out timeline because the Council and City Attorney wouldn't want to go that way. He suggested they do something like Connell listed as A1 and A2 and throw out what the Council looked at previously. He thought it would be appropriate to count all STRs in Newport under the cap number, regardless of where they were located. Hanselman thought that when the overlay was created, the whole concept was that this zone was where they should be, and STRs didn't belong in other areas of the city. Hanselman thought 176 was the cap number that they needed to strive to get to. He noted the numbers reported in July showed 149 in the overlay and 36 outside, which was beyond the cap. Hanselman thought they shouldn't award any new licenses until the numbers went under 176 overall. Berman asked for clarification on how many licenses there were in the overlay. Tokos reported there were around 140 and there was a number of properties currently working to get their licenses. There was an annual opening of licenses after license renewals were completed. This trended in a number of openings of somewhere in the mid-20s. Tokos reported the waitlist currently had 77 on the list and they worked down the list to offer licenses. Tokos reported the city had been at the 176 cap number in the overlay zone since shortly after the 2019 adoption. A discussion ensued regarding how the city worked through offering open licenses and how properties worked to get their licenses issued.

Escobar asked if Berman would want to table everything until next year. Berman only wanted to take the phase out off of the discussion. Hanselman thought that changing the overall number of STRs in the city to just 176 would slowly make the ones outside of the zone disappear. He thought there should never be more than 176 overall. He reminded that there was a housing shortage and this would help. Escobar asked that the members of the Work Group in attendance speak to this. Tokos clarified the 176 number was set by Council resolution on the day the ordinance was adopted. At that time the city looked at how much of the housing stock was tied up in seasonal housing, both citywide and in the overlay zone. The 176 was a numeric equivalent of what was a percentage allocation of housing within the overlay that was used as vacation rentals. The council didn't want to see the percentage of housing in vacation rentals within the overlay increase and set 176 as the cap by resolution. They found it was close to what they had licensed at that time. The Work Group felt it would be inappropriate for the Council to adjust by resolution the 176 number to anything else. They now wanted it hardwired to just 176. Tokos noted if they went by Hanselman's suggestion to restrict to 176 overall, this would reduce the number by 36 and they would have to ask themselves what their policy rationale was for this. Hanselman reminded that he wasn't asking them to reduce the number of licenses. He just didn't think they should pass out anymore licenses until the overall number of 185 licenses was reduced to 176. Escobar thought the STRs outside of the overlay were slowly going away. Hanselman noted that was the agreement that those outside of the overlay would go away over time. By going the way he suggested it would limit the STRs in town to 176 and it would remain over that until a number of STRs disappeared.

Patrick thought that Hanselman was changing how this was interpreted and how the actions by which people made their decisions within the last four years. Regardless of how it was framed, this would take 36 licenses away. Patrick thought that if they did this they would get hammered, and he didn't

think this would even make it past the Council anyway. He thought the process was working and they should stick to the things they could affect. The rules were working and they were already reducing licenses by setting a hard number. Hanselman didn't have any faith that the Council or City Attorney would do any kind of phase out. Escobar reminded that this might be an issue where politicians were behind the will of the people. Patrick reminded that there had been a group that already hashed this out where there was representation on both sides. He thought they were better off going with what the Work Group recommended. They didn't want to hash it out anymore because they had already done the work. Patrick thought they should go with setting the number as 176 and making it so they couldn't raise it over that number. He was okay with allowing the 30 day grace period. Patrick noted that Newport had a second home problem, not a STR problem, and this would continue. Escobar asked to hear from the Work Group members.

Jamie Michel addressed the Commission. Branigan asked for an overview of what the original discussion were about phasing out over 10 years, the discussion on the 30 day grace period for new owners, and there being more than 176 STRs in the city limits. Michel reported that the Work Group talked about tying the cap to a percentage of housing. She was in favor of this. They set the cap with the understanding that they would be building up to that number within the overlay as others fell off outside of the overlay. Michel thought it was a good sign that STRs outside of the overlay zone had fallen off. She thought that by putting the ordinance in place and letting it do its jobs, they could come back to it to do adjustments at a later date. If they let the attrition start happening naturally, they would see that the economy would slow things.

Seth Schuepbach joined the meeting and asked if the 176 units had to do with the Embarcadero rentals. Tokos explained the Embarcadero operated a hotel where the units that were managed on the hotel side were not affected by this. It only applied to the small number of owners who were seeking to manage their rentals on their own without using the hotel management. Berman asked if the 12 units at the Embarcadero were included the cap number. Tokos reported they were.

Sandy Roumagoux addressed the Commission. She explained how the Work Group had angst over what the Commission was discussing since 2019. She thought it was good to see vacation rentals outside the overlay slowly phase out, and that they should give the ordinance time to work. Roumagoux noted that when the Work Group discussed setting the number to 176 they were concerned that there would be a gray area if there was a number range. They thought that having a set number to work against was good. Escobar thanked her and thought it was important to hear from the Work Group. He remember how contentious it was when the original advisory committee was working on this. Roumagoux reminded that they heard from a large number of the public and thought this helped.

Cheryl Connell addressed the Commission. She reported she served on the original ad hoc committee. In terms of her comments on the 176 cap, the two to three percent of the housing stock at the time that could be used for vacation rentals was deemed at that point to not adversely affect the ability of the community to support housing for long term residents. Connell understood that the vacancy rate for Newport was close to zero and reported the property managers had told her that people were saying they couldn't find places to rent. She thought they needed to reconsider 176 being established as the two to three percent of housing and ask if Newport could handle the kind of use that went to STRs. Connell noted that there have been rentals outside of the overlay that have gone away because they sold and no longer could be used as vacation rentals. One of the things that spurred the transfer of ownership in the last two or three years was the hot real estate market. This had changed and Connell didn't see that kind of attrition rate happening currently because the housing market had softened. Berman asked if she was saying the 176 should be defined as a hard cap for the city limits or if they

should continue with the number in the overlay zone. Connell wanted them to make 176 the total number of STRs for the city limits. Currently, the city was over the 176 number granted. If they did this it would basically make a de facto moratorium so there would not be the ability for any new vacation rentals to be licensed until they got to the 176 cap. Connell thought the recommendations that included getting the Municipal Court to deal with notices of violations in a more timely fashion, figuring out what the transient room tax was, doing audits, and building a quality system for the city to make sure they're getting the revenue in a timely fashion were important. Without allowing more STRs to come on board it would give the city breathing room because there would be no new STRs to on board and allow the city to devote time to the STRs that were operating. Then they could work on what the Work Group recommended to get the processes up to date.

Patrick noted that over the last four years they were losing 3.5 units, and if the train of thought was to have this done in 10 years, the trend for houses was on track to meet it currently. Escobar asked if the goal of the current policy was to eliminate the STRs outside of the overlay zone. Patrick said yes, by attrition. He cautioned the Commission that they shouldn't go anywhere near using the word moratorium because if they said this, they would lose in court. Tokos reminded the three ways properties were phasing out were through the sale of the property, people retiring and moving into units, and people who no longer wanted to do a STR and gave up their licenses. Berman asked what Tokos thought on the rate of this continuing in the next few years. Tokos thought the numbers would slowly go down but felt there were some owners who would want to continue renting for some time.

Branigan asked for the Commission's thought on the 30 day grace period. Berman thought this made logical business sense and noted that this subject didn't come up for other businesses. He didn't think it was fair not to allow this. If they went over the 30 day grace period it would then become a problem. Escobar was opposed to anyone operating without a license. He thought whenever a property was sold the license should go to another property on the list. Berman reminded the ordinance was written to say that if the property was in or adjacent to water or commercial zones they would be transferable. Tokos added that units in the C-2 zone that were developed as tourist oriented facilities were what lead to this language in the code. Updike was good with the grace period. He appreciated the input from the Fire and Finance Departments and thought they addressed some of the concerns that were raised.

Hanselman asked how often the STRs were inspected. Tokos reported only on change of ownership, if there was a significant modification on the unit, or if there were complaints. Hanselman wanted to see the unit inspected before it was sold to make sure it was safe. Tokos reminded that city wasn't involved with real-estate transactions. There was no way to do this. The code was drafted so that the units would go through the inspections when they went through a change of ownership, when there was a significant modification in the structure, or when there was a complaint. When there was a change of ownership an inspection always happened. Updike thought they needed to be realistic about the process.

Branigan recommended continuing the discussion during the regular session meeting. Tokos suggested the Commission take the ordinance as drafted to the hearing, do a vote on it, and see where it landed. If it didn't clear, the Commission could always redirect it back to a work session.

B. FY 23/24 Goal Setting Session. No discussion was heard.

2. Unfinished Business.

A. Planning Commission Work Program Update. No discussion was heard.

3. **Adjourn.** The meeting adjourned at 7:03 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant

Draft MINUTES
City of Newport Planning Commission
Regular Session
Newport City Hall Council Chambers
January 23, 2023

Planning Commissioners Present: Bill Branigan, Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and John Updike.

Planning Commissioners Absent: Gary East (*excused*).

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order & Roll Call.** Chair Branigan called the meeting to order in the City Hall Council Chambers at 7:05 p.m. On roll call, Commissioners Branigan, Patrick, Hanselman, Berman, Escobar, and Updike were present.

2. **Approval of Minutes.**

A. **Approval of the Corrected Planning Commission Regular Session Meeting Minutes of November 28, 2022.**

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the previously approved Planning Commission Regular Session meeting minutes of November 28, 2022 as amended. The motion carried unanimously in a voice vote.

B. **Approval of the Planning Commission Regular Session Meeting Minutes of January 9, 2023.**

MOTION was made by Commissioner Berman, seconded by Commissioner Hanselman to approve the Planning Commission Regular Session meeting minutes of January 9, 2023 with minor corrections. The motion carried unanimously in a voice vote.

3. **Action Items.**

A. **File 4-CUP-22: Final Order and Findings of Fact.**

MOTION was made by Commissioner Patrick, seconded by Commissioner Berman to approve the final order and findings of fact for File 4-CUP-22 with conditions of approval. The motion carried unanimously in a voice vote.

4. **Public Comment.** None were heard.

5. **Public Hearings.** At 7:08 p.m. Chair Branigan opened the public hearing portion of the meeting. He asked the Commissioners for declarations of conflicts of interest, ex parte contacts, bias, or site visits. Commissioner Berman reported a contact he had with Branigan to discuss a hearing item. Branigan called for objections to any member of the Planning Commission or the Commission as a whole hearing this matter; and none were heard.

A. File 5-CUP-22: Conditional Use Permit Seeking Relief From a Short-Term Rental Land Use Standard:

Tokos reviewed the staff report. He acknowledged the testimony received from Maria Tesch who thought the request should be denied because the applicant had the ability to rent through the Embarcadero hotel. He explained that the applicant was arguing that the Embarcadero wasn't what the original short-term rental spacing standard was targeting because it was a location where you would expect to see transient use. Tokos thought the Commission had grounds to grant relief of this provision.

Berman asked if short-term rentals (STRs) inside the allowed zone were not subject to the density standard, but were subject to the spacing standard. Tokos explained that the density standards were a different provisions to limit the number of STR licenses inside the allowed zone to 176. Density was a different from the spacing standards.

Patrick asked if this license counted toward the 176 license cap. Derrick confirm it did. Patrick asked how this policy applied to condo buildings like Nye Sands. Tokos explained this wasn't an issue for Nye Sands because they were eligible to license any of the units in the one building. Embarcadero had multiple buildings where some of the buildings didn't have licenses. Patrick asked if they would treat Embarcadero like Nye Sands. Tokos explained the Commission was considering an approval for just this unit. Berman asked why they didn't say a group of buildings in the language. Tokos explained this had been a topic the Work Group discussed to see if they wanted to change the wording. The group said no to this because they had concerns about other situations the might have clusters of buildings. They thought it should be done on a case by case basis in rare circumstances since the conditional use process was available for this. Hanselman asked if the 12 licenses at the Embarcadero counted toward the total 176. Tokos reported they were included, and were units that didn't want to rent through the Embarcadero hotel.

Escobar thought this request doesn't impact residential units for people moving to Newport. This was a commercial use and he didn't see any reason to oppose the application given the fact that other units had licenses in the Embarcadero.

Proponents: Seth Schuepbach addressed the Commission. He reported that this unit was already a rental and approving the request wouldn't impact anything. It had been built for short term rental use. Schuepbach stated he worked hard to make this rental nice for family vacations and for someone else to enjoy.

Berman asked why having the Embarcadero handle the operation of the unit wasn't satisfactory. Schuepbach reported that there had been damage done to his unit and lack of general maintenance. The management also has had a lot of turnover. Berman asked what his plans were for a local representative. Schuepbach would manage it and employ someone to service the unit.

Opponents: None were heard.

Chair Branigan closed the hearing at 7:32 p.m.

Patrick understood the Embarcadero had ongoing issues. He thought this would set precedence because the was a good chance the rest of the units at the property would apply for this. Patrick was originally against this. When it was explained that this was in a commercial zone, and the other condos like Nye Sands were allowed, it didn't make sense not to allow it at the Embarcadero.

Patrick was inclined to grant the request but thought they needed to address this in a couple of years.

Escobar was in favor of granting the conditional use. They already had 12 units in the complex and didn't feel this wouldn't set a new precedence. Escobar noted Tesch's testimony that said he needed to wait his turn for a license was wrong, because he already had. He was in favor of it because it was designed for transient housing.

Hanselman agreed and thought Schuepbach had the right to do this. He understood the reason why he didn't want to use the Embarcadero management. Hanselman supported it Berman stated he was inclined to support it. Updike agreed and was in favor of it. Branigan noted the Embarcadero was a resort and thought they should allow this.

MOTION was made by Commissioner Berman, seconded by Commissioner Escobar to approve File 5-CUP-22 as presented. The motion carried unanimously in a voice vote.

B. File 1-CP-21: Comprehensive Plan Amendments to Adopt the Housing Capacity Analysis:

Tokos reviewed the staff report. Escobar asked if there was a deadline for the adoption. Tokos explained it was supposed to be done by the end of 2022 but the State understood that it hadn't been finished yet. It would be wrapped up by June 30, 2023. Tokos reported that both the Housing Production Strategy and the Housing Capacity Analysis would be in front of the Commission in a month or two.

MOTION was made by Commissioner Updike, seconded by Commissioner Escobar to make a favorable recommendation to the City Council for File 1-CP-21 as presented. The motion carried unanimously in a voice vote.

C. File 4-Z-22: Amendments to NMC Chapter 14.06 and 14.16 Related to RV and Tent Camping on Residential Lots:

Tokos reviewed the staff report and the changes to the code. Berman asked if the whole point of the changes to Chapter 14.06.050(5) was to exclude people from allowing someone to pitch a tent on an empty lot. Tokos explained that this was for RVs. The principal was that there be someone residing in a dwelling and who would make their dwelling unit available to the person in the RV. This commonly occurred when someone allowed a relative to utilize the dwelling while residing in the RV in the driveway. Berman questioned if the primary dwelling had to be occupied. Hanselman wanted to see it occupied and require the owners to be present. He thought the language needed to clarify it should be occupied.

Escobar pointed out the problems there had been with RVs parking in the city parking lot on Hurbert Street. He asked if there had been a groundswell within the community to have an RV parked in the driveway or in front of homes. Tokos explained there had been. There was an instance that a person wanted to have their daughter stay in an RV on their property. This RV wasn't parked in the driveway and a neighbor complained about it because of the proximity to their dwelling. Branigan asked if this applied to commercial properties as well as residential. Tokos reported it would as long as there was a dwelling unit on the property.

Berman asked what the rationale was to say sanitary facilities in the dwelling needed to be available to the persons in the RV. He asked why it didn't say the vehicle could be self-contained.

Tokos explained that they couldn't connect RVs to the sewer system waste drain and they would want them to use RV disposal sites. Berman asked if camper vans that weren't self-contained would be excluded. Tokos noted the language came from model codes and he suspected that this was a fail safe to say the dwelling needed to be made available for sanitary facilities.

Escobar asked if there was a time limit on how long they could park an RV. Tokos explained this would be six months. Patrick asked if the RV could connect to the dwelling's water and electric. Tokos reported there wasn't anything to say they couldn't connect to them.

Berman thought that saying the dwelling needed to be occupied would be good. Tokos didn't know how they could enforce this and reminded that the language stated the sanitary facilities needed to be made available to the vehicle occupants. Hanselman thought that when they were asking to put an RV in a residential area driveway they had an obligation to neighbors that the owner was there. If the neighbor wasn't there and the person in the RV wasn't acting appropriately, the neighbor wouldn't have the owner to talk to. Hanselman thought the owner needed to be present when someone parked an RV in their driveway. He thought they needed to protect neighbors. Patrick thought it would be okay if the owner gave his friend a key to enter the dwelling while they weren't present. He didn't see how they could enforce this. Patrick thought it would be okay if the vehicle occupants had a way to get in the house. Hanselman couldn't support this and wanted someone present who had a relationship with the person in the parking space.

Escobar wasn't too keen on his neighbor having an RV parked in their driveway. He saw the need for organized housing rather than the chaos of parking in a city parking lot.

Patrick asked if this would work when they had two lots that were under one tax lot. Tokos explained it would and was why the language was for a lot parcel or tract. In instances where there was a double lot and a dwelling, this would be okay.

Escobar asked if the Commission was married to the six month time limit. Tokos reported this was what the Commission suggested. Escobar suggested this should be six weeks. Tokos thought six months was more reasonable. The challenge was that once somebody was parked there, they wouldn't want it so tight on time because they weren't going to leave quickly. If they changed it to six weeks most people wouldn't do this. Escobar asked how neighborhood associations and covenants worked with this. Tokos explained the neighborhoods would enforce their covenants privately.

Chair Branigan closed the hearing closed 8:04 p.m.

Urdike stated he was in favor of this.

Berman was in favor but didn't think many of these would be located in town. He thought that when a family needed this to help out another family member it was a fabulous thing to have available. Berman also thought that enforcement would be nonexistent and it would be hard to know if a RV was self-contained.

Hanselman liked the concept but couldn't support it without the addition to the language that the owner be present. He also preferred that it wasn't up to enforcement to police this.

Escobar was torn on this. He wouldn't want one at his neighbor, but thought temporary housing was needed. He had reservations for the six months timeframe, but supported it.

Patrick supported it. He thought they should implement it and look at it again in two to four years. Hanselman thought they should do a sunset clause. Patrick thought that was a bad idea. Hanselman was concerned that they wouldn't come back to review it.

Escobar decided he would now oppose it. He thought there were too many flaws that needed to be addressed and there didn't seem to be a consensus within the group.

Branigan was for it because he didn't think there would be that many cases where there was a need for someone to live in an RV to keep someone off the street. He knew of a person that had been living in an RV who had a key to a residence that was the owner's second home. Branigan noted this had been working for them, and was a unique situation where the home wasn't occupied. He was in favor of it.

Udike noted that in NMC Chapter 14.16.20 is talked about tent camping being an occupied dwelling. He asked if "occupied" was defined in the code. Tokos thought they could add a definition but he cautioned that they be careful on what they referred to in terms of occupied dwelling units. He thought they could put it under Chapter 14.16.20(5). Berman thought they should consider taking out "occupied" for tents and put in that they needed to have access to the dwelling unit or sanitary facilities. Patrick wanted to include "occupied" for tents. Tokos noted that a tent wasn't self-contained and more of a transient type of arrangement.

MOTION was made by Commissioner Patrick, seconded by Commissioner Escobar to approve File 4-Z-22 with the addition that line five will read "a lot parcel or tract developed with an occupied dwelling unit provided." The motion carried in a voice vote. Berman was a nay.

Berman asked Tokos to note that he didn't like "occupied" for tents in the staff report to the Council.

6. New Business.

A. FY 23/24 Goal Setting Session.

Tokos reviewed the Planning Commission and Community Development Department goals and objectives for this year. He explained that this was a way to provide feedback on any important issues that needed to be conveyed to the Council.

A discussion ensued regarding the need for locations and staffing for a low barrier shelter. Tokos noted they had an obligation to dial in housing up and down the income spectrum. Newport had added more multifamily units in the last few years than they had in decades, and there could be more coming in down the road. Udike asked if there had been any concerns about the budget capacity or budget cuts that they should be concerned about. Tokos thought the message that would come from city administration was that Newport had a hard time filling vacancies. This was more of a staff limitation concern, not a budget issue.

Tokos asked if there was anything else the Commission wanted to add to the goals. Patrick pointed out that many of the goals expanded over many decades. Tokos noted that there were certain things staff had to do through the department that were part of the day to day operations that ate up a lot of their time. There were legislative amendments that also took years to finish. Patrick pointed out that Newport had a good reputation with builders and developers that say when they come here they get helped.

Tokos asked if they were comfortable with moving forward with goals. The Commission was in general agreement to do so.

7. **Unfinished Business.** None were heard.

8. **Director Comments.** None were heard.

9. **Adjournment.** Having no further business, the meeting adjourned at 8:50 p.m.

Respectfully submitted,

Sherri Marineau
Executive Assistant

**BEFORE THE PLANNING COMMISSION
OF THE CITY OF NEWPORT,
COUNTY OF LINCOLN, STATE OF OREGON**

IN THE MATTER OF PLANNING COMMISSION)	
FILE #5-CUP-22, A CONDITIONAL USE PERMIT)	FINAL
APPLICATION BY SETH R. SCHUEPBACH SEEKING)	ORDER
RELIEF FROM A SHORT-TERM RENTAL LAND USE)	
STANDARD LISTED UNDER NMC 14.25.030(B))	

ORDER APPROVING A CONDITIONAL USE PERMIT, a Conditional Use Permit seeking relief from the short-term rental land use regulation listed under NMC Section 14.25.030(B), which states that vacation rental use shall be limited to a single building on a lot, or group of lots, that abut a street segment. The applicant owns a two-bedroom condominium in Building "H" of the Embarcadero Resort that they would like to operate as a vacation rental. There are no vacation rentals currently operating within that building; however, there are vacation rentals in other buildings at the Resort. The dwelling unit is addressed as 1000 SE Bay Blvd, Unit No. H-412, Newport, OR 97365 (Assessor's Map 11-11-09-CB, Tax Lot 90804).

WHEREAS:

- 1.) The Planning Commission has duly accepted the application filed consistent with the Newport Municipal Code; and
- 2.) The Planning Commission duly held a public hearing on the request, with such hearing occurring on January 23, 2023; and
- 3.) At the public hearing on said application, the Planning Commission received testimony and evidence; and
- 4.) At the conclusion of said public hearing, after consideration and discussion, upon a motion duly seconded, the Planning Commission **APPROVED** the request.

THEREFORE, LET IT BE RESOLVED by the City of Newport Planning Commission that the attached findings of fact and conclusions (Exhibit "A") support the approval of the requested conditional use permit.

BASED UPON THE ABOVE, the Planning Commission determines that this request for a Conditional Use Permit is in conformance with the provisions of the Comprehensive Plan and the Zoning Ordinance of the City of Newport, and the request is therefore granted.

Accepted and approved this 13th day of February, 2023.

Bill Branigan, Chair
Newport Planning Commission

Attest:

Derrick I. Tokos, AICP
Community Development Director

EXHIBIT "A"

Case File No. 5-CUP-22

FINDINGS OF FACT

1. On December 20, 2022, Seth R. Schuepbach applicant and owner applied for a Conditional Use Permit seeking relief from the short-term rental land use regulation listed under NMC Section 14.25.030(B), which states that vacation rental use shall be limited to a single building on a lot, or group of lots, that abut a street segment. The applicant owns a two-bedroom condominium in Building "H" of the Embarcadero Resort that they would like to operate as a vacation rental. There are no vacation rentals currently operating within that building; however, there are vacation rentals in other buildings at the Resort.

2. The dwelling unit is addressed as 1000 SE Bay Blvd, Unit No. H-412, Newport, OR 97365 (Assessor's Map 11-11-09-CB, Tax Lot 90804). The property is 11.30 acres (Embarcadero Phases I to IV).

3. Staff reports the following facts in connection with the application:

- a. Plan Designation: Shoreland
- b. Zone Designation: W-2/"Water-Related."
- c. Surrounding Land Uses: Yaquina Bay to the south, The Landing at Newport Condominium Hotel to the west, Harbor Village RV Park and Harbor Crescent residential subdivision to the north, waterfront industrial to the east.
- d. Topography and Vegetation: Property slopes to the southwest toward the bay. The condominium project is fully built out and landscaped.
- e. Existing Structures: Thirteen condominium buildings.
- f. Utilities: All are available to the site.
- g. Development Constraints: Property is within the City's Geologic Hazards Overlay.
- h. Past Land Use Actions: *Ord. #888 (3/6/72)*. Annexation into the City of Newport. *File No. 44-Z-79*. Zone change to add planned development designation to the property. *File No. 2-EUP-11*. Replace and retrofit 34 deteriorated pile in the Embarcadero Marina. *File No. 1-EUP-12*. Replace decking of rotted marina floats. Embarcadero Marina. *File No. 2-EUP-15*. Reconstruction of a failed storm drainage outfall.

4. Upon acceptance of the application, the Community Development (Planning) Department mailed notice of the proposed action on January 3, 2023, to affected property owners required to

receive such notice by the Newport Zoning Ordinance, and to various city departments, agencies, and public utilities. The notice referenced the criteria by which the application was to be assessed. The notice was also published in the Newport News-Times on January 13, 2023 as required by NMC 14.23.020. The City received a letter from Marie Tesch, 1000 SE Bay Blvd, Unit Nos. E224 and E324, recommending the Planning Commission deny the application because the applicant has access to the Embarcadero in-house hotel operation.

5. A public hearing was held on January 23, 2023. At the hearing, the Planning Commission received the staff report and heard testimony from the applicant. No other parties elected to testify. Minutes from the January 9, 2023 hearing are hereby incorporated by reference. The Planning Staff Report with Attachments is also incorporated by reference into the findings. The Planning Staff Report Attachments included the following:

- Attachment "A" – Completed application form
- Attachment "B" – Application narrative
- Attachment "C" – County Assessor Tax Map 11-11-09-CB
- Attachment "D" – Embarcadero Phase III Condominium Plat, dated 5/13/77
- Attachment "E" – Aerial image of the property
- Attachment "F" – Letter from Maria Tesch, dated 1/8/23
- Attachment "G" – Public hearing notice

6. **Explanation of the Request:** With this application, the property owner is seeking relief from the short-term rental land use regulation listed under NMC Section 14.25.030(B), which states that vacation rental use shall be limited to a single building on a lot, or group of lots, that abut a street segment. The applicant owns a two-bedroom condominium in Building "H" of the Embarcadero Resort that they would like to operate as a vacation rental. There are no vacation rentals currently operating within that building; however, there are twelve (12) vacation rentals operating out of six other condominium buildings on the property. The location of the buildings containing vacation rentals is shown on Attachment "E". Each of these buildings had vacation rentals in them at the time Ordinance. No. 2144 was adopted in 2019, the ordinance that imposed the land use standard limiting the number of buildings along a street segment that can be dedicated to vacation rental use.

The owner's condominium was constructed as part of the third phase of the Embarcadero Resort development. That phase was platted in May of 1977 (Attachment "D"). The Embarcadero includes condominium units that are used for full time, non-transient use and transient occupancies. A transient occupancy is a stay of less than 30-days. Dwelling units at the Embarcadero that are available for transient use can be part of a rental pool offered to the public through their in-house hotel operation. Those units are covered by the hotel's business license, and are not subject to the City's business license and endorsement requirements for short-term rentals (NMC 4.05.025(2)). Owners who wish to manage and market their units independent of the Embarcadero are subject to the City's short-term rental licensing requirements (i.e. the twelve dwelling units referenced above).

Mr. Schuepbach notes in his narrative that the unit he owns has been on the City of Newport's vacation rental wait list for a couple of years and that he has been previously informed that it does

not meet the City's spacing requirements. He acknowledges the City's efforts to ensure there is enough housing for its full-time residents, but notes that the Embarcadero was not built for that purpose, but rather to accommodate tourism. He has utilized the in-house Embarcadero hotel operation but wishes to obtain a vacation rental license from the City of Newport because he believes that he can manage his unit more effectively than the Embarcadero.

7. **Conditional Use Permit Required:** Pursuant to NMC Section 14.25.010(C), if one or more of the standards required under Section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process. Such an application is subject to review by the Planning Commission at a public hearing.

8. **Applicable Criteria:** The applicable criteria for the conditional use request are found in NMC Section 14.34.050:

- a. The public facilities can adequately accommodate the proposed use.
- b. The request complies with the requirements of the underlying zone or overlay zone.
- c. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.
- d. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

CONCLUSIONS

Regarding the applicable criteria for the conditional use request, the following conclusions can be made:

A. **Criterion #1.** *The public facilities can adequately accommodate the proposed use.*

1. Public facilities are defined in the Zoning Ordinance as sanitary sewer, water, streets and electricity. City records indicate that all of these services exist and are available to the condominium building.
2. Considering the above, the Commission concludes that the public facilities can adequately accommodate the use of the dwelling as a vacation rental.

B. **Criterion #2.** *The request complies with the requirements of the underlying zone or overlay zone.*

1. This criterion addresses special requirements of the underlying or overlay zone beyond the standard zoning ordinance requirements. The subject property is zoned W-2/"Water-Related" and it is within the Vacation Rental Overlay Zone District (NMC Chapter 14.25).
2. There are no special requirements of the underlying zone, and the question before the Planning Commission is whether or not an approval standard of the Vacation Rental Overlay Zone District

should be set aside under authority granted to it in NMC Chapter 14.25. NMC Section 14.25.030 contains approval standards for siting vacation rental dwellings. NMC Section 14.25.010(C) provides if one or more of the standards required under Section 14.25.030 cannot be met, an owner may seek relief from those standards through a conditional use permitting process.

3. The applicant is seeking relief from the requirement listed under NMC Section 14.25.030(B), which states that vacation rental use shall be limited to a single building on a lot, or group of lots, that abut a street segment. This is the only standard for which the applicant is seeking relief. An approved conditional use permit that grants relief from, or provides alternative requirements to, one or more of the standards of NMC Section 14.25.030 shall serve as evidence that the standard(s) have been satisfied (NMC 14.25.010(E)).

4. The Community Development Director is charged with confirming that all other standards are met when reviewing and signing of a land use compatibility statement, a step that is independent of, and which would follow the Commission's action on this conditional use permit (NMC 14.25.010(A)).

5. Given the above, the Planning Commission concludes that this criterion is satisfied.

C. *Criterion #3. The proposed use does not have an adverse impact greater than existing uses on nearby properties; or impacts can be ameliorated through imposition of conditions of approval.*

1. This criterion relates to the issue of whether or not the proposed use has potential "adverse impacts" greater than existing uses and whether conditions may be attached to ameliorate those "adverse impacts."

2. The provision the applicant is seeking relief from, NMC Section 14.25.030(B), states that vacation rental use shall be limited to a single building on a lot, or group of lots, that abut a street segment. It was put in place to prevent vacation rentals from concentrating in residential areas with full time residents. Such concentration could change the character of the area, making it more transient and commercial in nature. This is particularly true for residential zoned areas. The Embarcadero Resort is not within a residential zoned area, and while there are condominium units in the development that are used for non-transient purposes, those owners would have understood the resort nature of the site when purchasing their properties.

3. The fact that the Embarcadero Resort has an in-house hotel operation further highlights the transient nature of the development. Granting relief from the spacing standard so that the applicant can manage their vacation rental for this purpose, as opposed to them making the unit available to guests through the Embarcadero, is effectively the same activity, so there would not be an adverse impact on nearby properties greater than exists today at the resort. In other words, a resident in the Harbor Crescent Subdivision across the street is not going to be impacted one way or the other by who is managing the rental, nor would there be a greater concentration of rentals since the unit can presently be made available to guests through the hotel operation.

4. Given the above, the Planning Commission concludes that this criterion has been satisfied.

D. Criterion #4. A proposed building or building modification is consistent with the overall development character of the neighborhood with regard to building size and height, considering both existing buildings and potential buildings allowable as uses permitted outright.

1. The applicant is not proposing to modify the building; therefore, the Planning Commission concludes that this approval standard is satisfied.

OVERALL CONCLUSION

Based on the application material, the Planning Staff Report, and other evidence and testimony in the record, the Planning Commission concludes that the above findings of fact and conclusions demonstrate compliance with the criteria for a conditional use permit found in Section 14.34.050 of the Newport Municipal Code (NMC); and, therefore, the requested conditional use permit is hereby approved.

PLANNING STAFF MEMORANDUM CONTINUED PUBLIC HEARING

FILE No. 5-Z-22

I. Applicant: City of Newport (Initiated by motion of the Newport City Council at its October 17, 2022 regular meeting).

II. Request: Amendments to Newport Municipal Code (NMC) Chapter 4.25, Short-Term Rental Business License Endorsements; and Chapter 14.25, Short-Term Rental Land Use Regulations, implementing recommendations of the Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group"). Revisions (a) add a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codify the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tighten up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement; and (d) eliminate the option that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution as long as the cap figure does not exceed 200. On May 6, of 2019, with Resolution No. 3850, the City Council established the current cap at 176 licenses.

Only one of these amendments relates to the City's land use regulations, which are contained in NMC Chapter 14.25. It is the recommendation to eliminate language that allows the City Council to adjust the vacation rental license cap by resolution. The new language codifies the 176 license limitation established with Resolution No. 3850.

III. Planning Commission Review and Recommendation: The Planning Commission reviews proposed amendments to land use regulations and provides a recommendation to the City Council. It may conduct multiple public hearings before making a recommendation. After the Commission provides a recommendation, the City Council will hold one or more public hearings before making a final decision on the amendments.

IV. Findings Required: This is a legislative action whereby the City Council, after considering a recommendation by the Planning Commission, must determine that the changes to the Newport Municipal Code are necessary and further the general welfare of the community (NMC 14.36.010).

V. Planning Staff Memorandum Attachments:

- Attachment "A" Work Group Recommendation Letter, dated 9/30/22
- Attachment "B" Draft Ordinance No. 2202
- Attachment "C" Minutes from the 10/17/22 City Council Meeting
- Attachment "D" Notice of Public Hearing
- Attachment "E" 1/6/23 letter from Cheryl Connell
- Attachment "F" Draft minutes from 1/23/23 Planning Commission Work Session

VI. Notification: The Department of Land Conservation & Development was provided notice of the proposed legislative amendment on November 23, 2022. Notice was further sent by email to 286 individuals/entities that had previously expressed an interest in being informed of potential changes to the City's short-term rental regulations, and it was published in the Newport News-Times on January 4, 2023 (Attachment "D").

VII. Comments: Cheryl Connell submitted a letter dated 1/6/23 (Attachment "E"). No other written comments have been received.

VIII. Discussion of Request: With Resolution No. 3857, the City Council established the Work Group to collect and evaluate information related to the implementation of short-term rental regulations enacted in 2019 with Ordinance No. 2144. The Work Group was further tasked with summarizing its observations as to the ordinance's effectiveness in achieving policy objectives, including whether or not it should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council.

The Work Group met on a quarterly basis from August of 2019 through September of 2022, carrying out its assigned responsibilities. Over that period of time, it became evident to the Work Group that Ordinance No. 2144 has, for the most part, achieved the desired policy objectives. They have; however, identified several steps the City can take to improve its implementation, and a handful of code amendments that will enhance the ordinance's overall functionality and effectiveness. The Work Group's recommendations are outlined in a September 30, 2022 letter (Attachment "A") and are summarized as follows:

Steps that the Work Group recommends the City take to improve implementation of the ordinance include:

- Automating the annual renewal process for business license endorsements and payment of transient room taxes.
- Implementing an auditing program for payment of transient room taxes.
- Filling the code enforcement position authorized in the FY 22/23 budget so that code enforcement staff will be available to respond to incidents on weekends.
- Coordinating with the Municipal Court to identify steps that can be taken to adjudicate citations in a timely manner.

Code changes recommended by the Work Group, outlined in draft Ordinance No. 2202 (Attachment "B"), include:

- Establishing a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license.
- Codifying the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements.
- Tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement.
- Eliminating the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution. The current language allows the license limit to be increased or reduced by resolution provided it does not

exceed a maximum of 200 dwelling units. The proposed language sets a hard cap by ordinance at 176 licenses.

The Work Group also notes that some work may be needed to clarify rules related to short-term rental trash management. Pursuant to Resolution No. 3931, the Work Group was to provide its final report no later than September 30, 2022, which it has done. That resolution also set the Work Group's term to expire at the end of the calendar year.

On January 9, 2023, the Planning Commission conducted a public hearing to consider amendments to the City of Newport's Short-Term Rental regulations recommended by the Short-Term Rental Ordinance Implementation Work Group that was appointed by the Newport City Council. After considering public testimony, the Commission elected to continue the public hearing to February 13, 2023 so that it could hold a work session to further evaluate the recommendations. Members of the Short-Term Rental Ordinance Implementation Work Group have been invited to participate in the work session.

Commissioner Berman requested that language be prepared that would phase out non-conforming vacation rentals, situated outside Vacation Rental Overlay Zone, within a specific number of years. This is an option that the City Council considered and ultimately did not chose when it adopted the current regulations with Ordinance No. 2144, in May of 2019. At the February 13, 2023 work session, staff informed the Commission that if it is inclined to pursue a hard phase out date, then it would need to direct staff to prepare an ordinance to that effect. It cannot be included with the package of revisions recommended by the Short-Term Ordinance Implementation Work Group because state law requires very specific notice prior to the first evidentiary hearing on an ordinance that would prohibit a land use(s) previously allowed in the affected zone. Draft Ordinance No. 2202, recommended by the Short-Term Rental Ordinance Implementation Work Group, includes a single change to the land use regulations listed in Newport Municipal Code Chapter 14.25. That revision is procedural, codifying the 176 license cap, currently set by resolution, into the City's Municipal Code. It does not have the effect of prohibiting a use; therefore, the statutory notice was not provided prior to the January 9, 2023 hearing. The specific statutory language is in ORS 227.186. At the work session, Commissioner Berman suggested to the group that consideration of a hard phase out for non-conforming vacation rentals, outside of the permissible area boundary, be deferred for the time being. There was general agreement amongst the group that this was an appropriate course of action.

A question was raised at the January 9, 2023 hearing as to how the City handles change of ownership of hotels/motels and whether or not they are afforded a grace period to obtain a business license akin to the proposed language contained in draft Ordinance No. 2202. Staff looked into the matter and informed the Commission that the City learns about when a hotel/motel is sold when licenses are renewed in July, or when monthly room taxes payments are remitted. A request was also made about hotel/motel safety inspections. The Fire Department strives to inspect these facilities annually. An email from Fire Chief Murphy outlined how the process works along with statistics for some of the inspected hotels/motels.

Commission members offered the two Short-Term Rental Ordinance Implementation Work Group members in attendance, Jamie Michel and Sandra Roumagoux, an opportunity to share their thoughts on the process that led the Group to recommend changes to the City's short-term rental regulations. They also provided Cheryl Connell an opportunity to elaborate on her concerns, outlined in the 1/6/23 letter. At the end of the work session, there was general agreement that draft Ordinance No. 2202 should be presented, as drafted, at the continued hearing on February 13, 2023. A draft copy of the minutes from the January 23, 2023 Commission work session is enclosed as (Attachment "F").

IX. Conclusion and Recommendation: The Planning Commission should review the proposed amendments and make a recommendation to the City Council as to whether or not they are necessary and further the general welfare of the community. This would be done by motion and vote of the Commission members present.

If the Commission is not prepared to make a recommendation, or desires additional information or code revisions before it does so, then it may continue the hearing to a date certain. The Commission's next regular meeting hearing date/time is February 27, 2023 at 7pm. If the Commission wishes to hold a work session before conducting an additional hearing, then March 13, 2023 at 7pm would be the earliest date for a continued hearing, with the work session being held on February 27, 2023 at 6pm.



Derrick I. Tokos AICP
Community Development Director
City of Newport

February 9, 2023

CITY OF NEWPORT

169 SW COAST HWY

NEWPORT, OREGON 97365

COAST GUARD CITY, USA



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<http://newportoregon.gov>

mombetsu, japan, sister city

To: Newport City Council

From: Short-Term Rental Ordinance Implementation Work Group

Date: September 30, 2022

RE: Final Report of the Short-Term Rental Ordinance Implementation Work Group

Dear Council Members,

With Resolution No. 3857, you established our Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group") to collect and evaluate information related to the implementation of the short-term rental regulations enacted with Ordinance No. 2144. You further tasked the Work Group with summarizing its observations as to the effectiveness of Ordinance No. 2144 in achieving policy objectives, including whether or not the ordinance should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council.

Our Work Group met on a quarterly basis from August of 2019 through September of 2022, coordinating with staff, taking testimony from the public, and providing periodic reports to the Commission and Council. Over that period of time, it has become evident that Ordinance No. 2144 has, for the most part, achieved the desired policy objectives. It has provided a clear and understandable administrative framework for licensing the annual operation of short-term rentals that ensures the safety and convenience of renters, owners, and neighboring property owners; protects the character of residential neighborhoods; preserves the City's supply of needed housing; and addresses potential negative effects such as noise, overcrowding, illegal parking, and nuisances. Further, it has struck a reasonable balance between the need to limit short-term rental operations within neighborhoods to ensure compatibility, while also recognizing the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses, and others in need of housing for a limited duration.

While Ordinance No. 2144 has had its desired effect, there are steps the City can take to improve its implementation. This includes the following, in no particular order of priority:

- Automating the annual renewal process for business license endorsements and payment of transient room taxes.
- Implementing an auditing program for payment of transient room taxes.
- Filling the code enforcement position authorized in the FY 22/23 budget so that code enforcement staff will be available to respond to incidents on weekends.
- Coordinating with the Municipal Court to identify steps that can be taken to adjudicate citations in a timely manner.

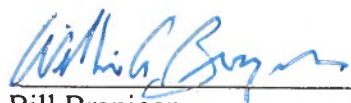
Additionally, we have identified a few areas where Ordinance No. 2144 could be amended to improve its overall functionality and effectiveness. They include the following:

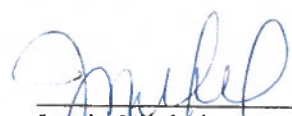
- Establishing a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license.
- Codifying the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements.
- Tightening up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement.
- Eliminating the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution. The current language allows the license limit to be increased or reduced by resolution provided it does not exceed a maximum of 200 dwelling units. The proposed language sets a hard cap by ordinance at 176 licenses.


The details of each of these changes are included in draft Ordinance No. 2202, included as an attachment to this letter. Some work may be needed to clarify rules related to short-term rental trash management. This is an issue that can be more thoroughly evaluated should the City Council initiate the legislative adoption process. One final recommendation that we would offer the Council is that it should consider asking staff to provide periodic reports on how the City's short-term rental regulations are working so that it can stay informed and make changes, as needed, moving forward. An annual report in the fall would make sense as that would be after the annual license renewal process wraps up and is well in advance of the next summer season should there be a need to adjust the requirements.


Impacts and issues involving short-term rentals will continue to be a topic of discussion in the community and there will be challenges ahead as industry, technology, visitor preferences, and neighborhood dynamics evolve and change. The City will need to keep pace, and these recommendations are one step in that direction. Thank you for your time and consideration.

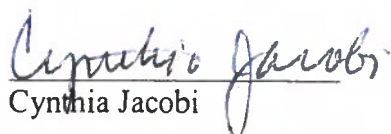
Sincerely,

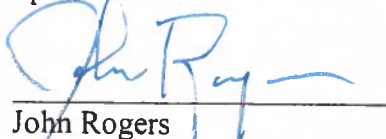

Bill Branigan


Jamie Michel


Dietmar Goebel


Spencer Nebel


Cynthia Jacobi


John Rogers


Sandra Roumagoux

CITY OF NEWPORT

ORDINANCE NO. 2202

AN ORDINANCE AMENDING TITLE IV AND TITLE XIV
OF THE NEWPORT MUNICIPAL CODE RELATING TO
SHORT-TERM RENTALS

(Newport File No. 5-Z-22)

WHEREAS, with Resolution No. 3857, the City Council established a Short-Term Rental Ordinance Implementation Work Group (hereafter "Work Group") to collect and evaluate information related to the implementation of new short-term rental regulations enacted with Ordinance No. 2144; and

WHEREAS, the Work Group was further tasked with summarizing its observations as to the effectiveness of Ordinance No. 2144 in achieving policy objectives, including whether or not the ordinance should be revised or its implementation improved, and to provide periodic status reports to the Planning Commission and City Council; and

WHEREAS, the Work Group met on a quarterly basis from August of 2019 through September of 2022, coordinating with staff, taking testimony from the public, and providing periodic reports to the Commission and Council; and

WHEREAS, in the course of performing these tasks, the Work Group determined that a targeted set of amendments to Ordinance No. 2144 is needed to improve its overall functionality and effectiveness; and

WHEREAS, the Work Group's recommendations, outlined in draft Ordinance No. 2202, were forwarded to the City Council for its consideration at a public meeting on October 17, 2022, after which the Council, by motion, elected to initiate the process set forth in Newport Municipal Code (NMC) Chapter 14.36 to amend city regulations put in place with Ordinance No. 2144; and

WHEREAS, the Planning Commission held public hearings on January 9, 2023 and February 13, 2023 to consider draft Ordinance No. 2202, at which the public was afforded an opportunity to provide testimony on the proposed amendments. After considering testimony and due deliberation, the Commission voted to [recommend or not recommend] the amendments be adopted; and

WHEREAS, the City Council held a public hearing on _____ regarding the question of the proposed amendments and, after considering the recommendation of the Planning Commission and evidence and argument in the record, adopted the ordinance, concluding that it is necessary and furthers the general welfare of the community; and

[Note: Council could also elect to further amend or choose not to adopt the ordinance.]

WHEREAS, Information in the record, including affidavits of mailing and publication, demonstrate that appropriate public notification was provided for both the Planning Commission and City Council public hearings.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

Section 1. Findings. The findings set forth above are hereby adopted in support of amendments to Ordinance No. 2144, as codified in Titles IV and XIV of the Newport Municipal Code, and further described in Sections 2 and 3 of this Ordinance.

Section 2. Municipal Code Amendment. Chapter 4.25, Title IV, of the Newport Municipal Code is hereby amended as set forth in Exhibit "A".

Section 3. Municipal Code Amendment. Chapter 14.25, Title XIV, of the Newport Municipal Code is hereby amended as set forth in Exhibit "B".

Section 4. Effective Date. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: _____

Signed by the Mayor on _____, 2023.

Dean H. Sawyer, Mayor

ATTEST:

Erik Glover, Asst. City Manager/City Recorder

October 17, 2022

6:04 P.M.

Newport, Oregon

CITY COUNCIL MEETING

The Newport City Council met on the above date and time in the City Council Chambers of the Newport City Hall. On roll call Sawyer, Goebel, Hall, Jacobi, Parker (via Zoom), Botello were present.

City Staff in attendance were: Spencer Nebel; City Manager, Erik Glover; Assistant City Manager/City Recorder, Derrick Tokos; Community Development Director, Steve Baugher; Acting Finance Director, David Allen, City Attorney, Aaron Collett; City Engineer, Chris Beatty; Senior Project Manager, Clare Paul; Assistant City Engineer, Brent Gainer; Operations Lieutenant Newport Police Department, Rob Murphy; Fire Chief, Tom Sakaris; Assistant Fire Chief/Fire Marshal

PLEDGE OF ALLEGIANCE

Council, staff, and the audience participated in the Pledge of Allegiance.

PUBLIC COMMENT

Glover read a letter pertaining to homeless in Newport from JD/Volosity Himura into the record.

Traci Flowers with Grace Wins Haven spoke said she wanted to throw out a couple of things for consideration. Flowers reported over the last couple weeks following the camping ordinance adoption, she has dealt with tons of people complaining about the ordinance. Flowers reported she was concerned the Council put in the ordinance under non-permitted locations, areas within 200 feet from homeless services, which includes her building. Flowers reported that homeless folks in-front of Grace Wins are vulnerable. Flowers detailed homeless residents with medical challenges, those that are waiting for Social Security Disability payments, and some that are unable to drive or walk to Grace Wins Haven to procure services. Flowers advised that Grace Wins is a life-saving operation for some people, and they can't make it to Grace Wins if they have to move, but she appreciates the work Council has done on the ordinance, and their assistance to Grace Wins in general.

Goebel inquired as to if the proximity to Highway 20 is the restriction? Flowers reported that sleeping within 200 feet of Grace Wins Haven is not-permitted, the Avery building is also out, and school areas have a restriction on camping as well. Flowers reported as a result basically all of First Street is not available, it would be ok if people are not vulnerable people, but the folks in-front of her building are vulnerable. Hall reported that she didn't recall Flowers bringing this item to Council attention during previous public hearing. Hall reported that a few on the Council went to a League of Oregon Cities homeless workshop all day today in Newport, and the Council recognizes penalizing where people sleep or lie or rest, but this effort is fluid and they are trying to get a sense of how to nuance everything in. Flowers reported that until last meeting she had not heard the homeless services buffer

restriction, and people have been flooding to her once it was adopted. Sawyer reported that ordinances are not set in stone, they can, and are frequently dialed in via revision, to match needs.

PROCLAMATIONS, PRESENTATIONS, AND SPECIAL RECOGNITIONS

Oath of Office - Firefighter- Brian Heisler, Luke Richcreek, Steve Moody, William Priser, Christopher Gilbert. Glover introduced the agenda item. Murphy advised it was an exciting first in the history of the department, swearing in five firefighters at once. Murphy reported that Council has provided authorization for three additional staff, one candidate is in background investigations so the five firefighters tonight are five out of the six authorized fire fighters. Murphy reported he was excited for the new energy, staff effectively doubling in a few months and current employees are very excited to have the new members of the team.

Glover administered the oath of office and swore in Firefighter Brian Heisler, Luke Richcreek, Steve Moody, William Priser, and Christopher Gilbert.

Murphy spoke about the hiring process, and training process. He reported that training involves Sakaris and the Captains, includes quizzes on practical applications, policies and procedures, the new Firefighters will have a one-year probation period followed by a final evaluation, before moving over to regular employment.

CONSENT CALENDAR

Glover introduced the consent calendar and explained it consisted of the following items:

Approve Minutes of the Regular Session of October 03, 2022;

Approve Minutes of the Work Session of October 03, 2022;

Approve Minutes of the Executive Session of October 03, 2022;

Favorably Recommend to the Oregon Liquor Control Commission (OLCC) the Approval of an OLCC Full On-Premise License for Kaizen Sushi Corporation, dba Asiatico Waterfront Sushi Located at 875 SW Bay Boulevard;

Ratification of the Mayor's Appointments of Terrie Murphy and Vicki Bock to Fill Vacant Seats on the 60+ Advisory Committee for Two-year Terms which will Expire January 2024;

Receipt of Approved Committee Minutes consisting of the:

Planning Commission Regular Minutes of August 22, 2022;

Planning Commission Work Session Minutes of August 22, 2022;

Planning Commission Work Session Minutes of September 12, 2022;

Planning Commission Work Session Minutes of September 26, 2022

Library Advisory Committee Meeting Minutes of October 10, 2022

MOTION was made by Goebel, seconded by Jacobi to approve the consent calendar. The motion carried unanimously in a voice vote.

PUBLIC HEARING

Public Hearing and Potential Adoption of Ordinance No. 2203, an Ordinance Amending NMC 9.50.030 Notice of Campsite Clean-up

Glover introduced the agenda item. Nebel presented the written City Manager Report saying on October 3, 2022, the City Council adopted Ordinance No. 2198, an ordinance repealing and replacing Chapter 9.50, and amending Section 6.25.010, of the Newport Municipal Code (NMC) related to camping. Ordinance No. 2203 is a technical amendment to clarify the current practice for a 72-hour written notice under the camping ordinance adopted on October 3. The amendment clarifies that the telephone number for retrieving items picked up from campsites will be included in the 72-hour written notice posted and distributed under subsection (B) in Section 9.50.030 of the Newport Municipal Code.

Recommendation:

I recommend that the Mayor conduct a public hearing on Ordinance No. 2203, an ordinance amending Section 9.50.030 of the Newport Municipal Code related to Notice of Campsite Cleanup.

Following the public hearing and after considering any comments made, I further recommend the Council consider the following motion:

I move to place for final passage and read by title only Ordinance No. 2203, an ordinance amending Section 9.50.030 of the Newport Municipal Code related to Notice of Campsite Cleanup.

The Mayor will then ask for a voice vote on whether to adopt the ordinance. If the motion passes, the City Recorder will read the ordinance by title only.

A roll call vote on the final passage of the ordinance will then be requested by the Mayor and taken by the City Recorder.

Fiscal Effects: None.

Alternatives:

Do not approve the motion, refer to City administration for further refinement, or as suggested by City Council. Section 16 - Ordinance Adoption of the City Charter provides that "at the request of any Council member, the roll call vote shall be at a separate Council meeting. Any amendments from the printed version circulated at the Council meeting shall be read in full at the time of the reading of the ordinance by title, unless Council by unanimous vote waives reading of the amendments."

Nebel advised that this ordinance doesn't change practice of the City, it makes code match practice, ordinances are not etched in stone and this effort will be a constant review process as the City moves forward.

Sawyer opened the public hearing at 06:29 P.M. for public comment, none was heard and Sawyer closed the public hearing at 06:29 P.M.

Goebel inquired as to if the camping ordinance can be brought up in a future work session regarding Grace Wins Haven earlier shared concerns. Nebel advised that Staff was happy to meet with Grace Wins to discuss the issue and obtain further information.

MOTION was made by Goebel, seconded by Jacobi to move to place for final passage and read by title only Ordinance No. 2203, an ordinance amending Section 9.50.030 of

the Newport Municipal Code related to Notice of Campsite Cleanup. The motion carried. Glover read Ordinance 2203 by title only, and conducted a roll call voice vote. The motion carried unanimously in a roll call voice vote.

Botello shared that she was curious about the display of the camping prohibited map, and the 72 hour notice posting for cleanups process saying not everyone has a phone, and wondered if posting at stores, and the Newport may be appropriate. Nebel advised that the 72 hour notice is also physically posted at each site where a cleanup is done.

Nebel advised that Councilor Kaplan raised an issue of showing the map in a better/more clear way. Tokos advised that the camping prohibited map was put together for those that are helping homeless persons find places to camp. He said he understands that many homeless folks don't have access to technology, but they would be of use to Traci Flowers/Grace Wins Haven, or perhaps Legal Aid/Blair Bobier or members of the faith-based community to review locations with houseless folks. Tokos reported the web based map will allow zooming in to a parcel level view, and the police department, will have a map available to them as well.

Nebel reported that this is an act of refinement, in a challenging situation, following suggestion from Blair Bobier/Legal Aid the City Council has made an adjustment in the initial ordinance drafted some time ago. Nebel advised that the process is going to be an ongoing process, problems or mistakes will take place and refinement will occur, as the situation is a complicated and very challenging issue.

Allen reported that one struggle with the map is clarity regarding buffer zones, parks are well designated, as is the idea of visual site of a trail, and city owned facilities is another clearly defined area.

Hall reported that at a recent League of Oregon Cities Conference, it was shared to post signs at every entrance to a camp, before a cleanup and check the signage frequently during that period because it may get torn down etc. Nebel advised that as a matter of practice Community Service Officers check signs, and repost if they are down, the ordinance or discussion today, has not changed anything currently being done by the City.

Allen advised that the correction made it to make it clear that the ordinance, matches State law. Botello inquired about the follow up process, after posting/securing possessions during a cleanup. Nebel advised that the City collect materials and stores them for 30 days, there is a notice telling folks to contact the Police Department, and collection instructions, if they are not collected they are disposed of.

Botello inquired as to if Police Department or City personnel, provide guidance on where folks can go in the community? Nebel shared that the City does not tell folks where they can go, because then the City accepts liability for it being a safe place for them to go, as such the City provides info on where folks cannot go, and it is up to independent judgement following that. Nebel advised the City would like to be more helpful in that regard, but as a City organization it is not tenable, due to liability as mentioned. He said that the whole homeless crisis is mind boggling to figure out how to appropriately navigate all these various issues, and be fair and reasonable going forward. Nebel reported that there was hope of a constructive path with HB 4123, developing a comprehensive regional plan.

Nebel shared information on a recent meeting with other Cities regarding the homeless crisis, it consisted of many folks from coastal communities, Portland suburbs

and the valley. He said every community is not very proud of their individual efforts in responding to the crisis, with most realizing it will take combining resources to better respond.

Jacobi inquired about City liability, and if the City directed camping on a certain street, the City has liability insurance. Nebel advised that if the City tells someone where to go, the City imposes potential liability on themselves. Allen reported that he sent everyone a guidance document, a few months back, which was put together by a group of attorneys that laid out the different issues. Allen shared there are new nuances coming out of State of California, regarding government response to homelessness. Allen advised that the bottom line is if the City starts telling folks where they can go or put up a tent, there is liability via that, and City insurance company will not support that. He reported that an insurer wants risk managed not increasing it.

Sawyer advised that it seems likely for example, if the City said someone is allowed to camp in a certain area, and then they get hit by an automobile, the City would be liable.

Allen reported that the City approach is difficult, ideally other organizations are implementing or researching what the City put in place, to provide guidance, which does not impact City liability.

Hall detailed a story of a homeless person getting run over in Salem, by a drunk driver. Allen reported that scenarios like that were considered by the City, Tokos did a great job marking off certain streets due to high traffic and liability for folks on curbs, the map shifts folks from higher liability areas which create a greater danger for themselves. He shared lots of thought went into this framework, but it may need some work around the edges to make it better.

Nebel reported that whereas clauses are seeming to play a big role in court cases, so they spending extra time and attention on those in the future was important. Tokos advised that made senses as the whereas clauses tell the story, of what the local government was thinking when they put an ordinance together.

Botello inquired as to how soon the change would happen for Grace Wins Haven? Nebel advised that the City would be meeting with Grace Wins Haven soon, to discuss the situation and possible expedient solutions.

Public Hearing and Potential Approval of a Lease Agreement with Purchase Option between the City of Newport and Pacific Seafood - Newport, LLC for City-owned Docks and Upland Areas Adjacent to the Public Parking Lot on Bay Boulevard across from Fall Street

Glover introduced the agenda item. Nebel presented the written City Manager Report saying the City of Newport owns a small section of dock and adjacent upland areas which has been leased for seafood processing businesses continuously since 1957. The current lease is with Pacific Seafood - Newport, LLC which was entered in to in 2016. Pacific Seafood owns the land and docks on the waterfront on both sides of the City property. That lease expired June 7, 2022, and has been continued under a holdover provision of the agreement. Since the lease contains a purchase option, a public hearing is required prior to City action on entering in to a new lease. The proposed lease is for a three-year period with an option for the company to extend the lease two additional years. An inflationary adjustment has been applied to the lease rate, increasing it from \$3,000 per month to \$3,500 per month. If the lease is extended, then an inflationary adjustment would be applied to the rental fee at that time.

Pacific Seafood is continuing to work on long-term redevelopment plans for its properties. The lease provides a provision that gives the company an exclusive right to negotiate acquisition of the City's parcel, if it is redevelopment, plans include an investment of at least \$1 million into the properties, including the lease land. Section 2.B provides an exclusive right for Pacific Seafood to purchase the property being leased, provided the company makes a total investment of at least \$1 million on the site that includes the leased premise. Should Pacific Seafood pursue purchase of this property, negotiations of good faith would take place for up to 90 days, to reach mutually acceptable terms. The terms of the sale would be subject to a second public hearing prior to Council deciding to move forward with the sale.

Recommendation: I recommend that the Mayor conduct a public hearing regarding the issuance of a new lease to Pacific Seafood-Newport, LLC which includes an exclusive right to purchase the property for the City-owned dock and upland areas adjacent to the public parking lot located on Bay Boulevard across from Fall Street. Following the public hearing and considering any comments made, I recommend the Council consider the following motion: I move to authorize the City Manager to execute a lease agreement with purchase option between the City of Newport and Pacific Seafood-Newport, LLC for docks and upland areas adjacent to the public parking lot on Bay Boulevard across from Fall Street owned by the City, and after, determine that the property is surplus for City uses, and the sale provision in the lease is in the public interest.

Fiscal Effects: The City will receive \$3,500 per month in rental fees with Pacific Seafood also covering the annual Oregon Department of State Lands (DSL) in water lease area payments.

Nebel advised that Pacific Seafood has docks, this property is more or less in between both of their properties.

Sawyer opened the public hearing at 06:58 P.M to receive public comment, none was heard. Sawyer closed the public hearing at 06:58 P.M.

Goebel advised that the City owns a parking lot area there as well. Nebel advised there are some leased lands, the dock area Pacific Seafood pays for in the inwater area, but there are some upland areas too. Tokos reported there is a bit of a storage area, basically a fenced area on the Yaquina Bay side, the the parking lot itself is not included in the lease. Goebel inquired as to if parking area will still be public? It was indicated the parking lot will remain public. Nebel reported the parking plan will address this in the future, Pacific Seafood can ask to use the area for temporary storage on occasion and the City will review any temporary use at that time.

MOTION was made by Hall, seconded by Goebel to move to authorize the City Manager to execute a lease agreement with purchase option between the City of Newport and Pacific Seafood-Newport, LLC for docks and upland areas adjacent to the public parking lot on Bay Boulevard across from Fall Street owned by the City, and after, determine that the property is surplus for City uses, and the sale provision in the lease is in the public interest. The motion carried unanimously in a voice vote.

COMMUNICATIONS

Final Report of the Short-Term Rental Ordinance Implementation Work Group

Glover introduced the agenda item, Nebel read the written City Manager Report saying the City Council established a Short-term Rental Ordinance Implementation Work Group (Work Group) to collect and evaluate information related to the implementation of short-term rental regulations enacted in 2019 through Ordinance No. 2144. This work group was created in 2019 to review the new code requirements addressing various aspects of short-term rentals within the City of Newport. This ordinance made several significant changes to the way short-term rentals are regulated in the city, including: • Creating an overlay zone that provides where new short-term rentals may exist. • Create a cap and spacing requirements in accordance with the zoning ordinance to eliminate any concentration of homes for vacation rentals in the overlay zone. • Grandfathered in existing uses outside of the overlay zone until sold. • Required each vacation rental to be appropriately signed. • Provided for a system of compliance and outlined the consequence of violating certain aspects of the ordinances. In addition to the ordinance, the City contracted with LodgingRevs who has since been acquired by Gov.OS who monitors advertising activity for vacation rentals within the City. Gov.OS identifies any unlicensed vacation rentals that are advertising in the City, provides for a 24-hour hotline to report any complaints regarding vacation rentals, and has the capability of providing information as to the relative activity of each vacation rental to help monitor the payment of room tax coming from each property. This could be used in conjunction with an auditing program for payment of transient room taxes. One significant challenge with auditing vacation rentals is that third-party intermediaries, such as Airbnb do not report room taxes on an individual property basis, but as a composite for the City. Local jurisdictions in the state of Oregon have not been successful in having these online booking companies provide individual tax revenues per property.

The Work Group has provided several administrative recommendations, and recommended code changes for the City Council to consider. They are outlined in the attached letter from the Work Group. Overall, the Work Group has concluded that over time, Ordinance No. 2144 achieved the desired policy objectives for licensing and regulating the operation of vacation rentals and framework that ensures the safety for renters, owners and neighboring property owners. It protects the character of residential neighborhoods by eliminating a concentration of vacation rentals in residential areas within the zoning overlay, and prohibits new vacation rentals outside the overlay zone. It also recognizes the benefits of short-term rentals in providing recreation and employment opportunities, as well as transitional housing for tourists, employees of businesses and others who need housing for a limited duration. The specific recommendations can be found in the attached letter and staff report for your review.

Recommendation: I recommend the City Council consider the following motions: I move to initiate amendments to the City of Newport's Short-term Rental Regulations as recommended by the Short-Term Rental Ordinance Implementation Work Group and as detailed in draft Ordinance No. 2202, and refer the matter to the Planning Commission to hold one or more public hearings and provide a recommendation to the City Council on adoption of the code changes. I further recommend Council concur with the administrative recommendations, including automating the annual renewal process for business license endorsements and payment of transient room taxes, implementing an auditing program,

filling the budgeted code enforcement position for weekend coverage, and coordinate with the Municipal Court to identify steps to address adjudicated citations in a timely matter.

Fiscal Effects: None directly by accepting this report. Alternatives: Modify recommendations, or as suggested by the City Council.

Sawyer inquired as to if this item would be one or two motions? Nebel advised it was done as two motions, one to provide direction to the Planning Commission and one to direct the Administration.

Jacobi shared she was pleased with the implementation work group, suggestions were garnered and it seemed like things are now going forth smoothly, with a reduction in neighborhood/community complaints. Jacobi reported that it seems most calls received are for situations in which folks are unable to obtain access into their rental, and the call the City.

Goebel reported that he thinks another Community Services Officer would be great, most issues are complaint driven items, such as parking, or noise etc. Nebel advised that one position was created, and one part time position to provide enforcement on weekends. He shared that complaints are so limited, that Community Service Officers have been dealing with other issues, where there is plenty to do so efforts are not only towards vacation rentals.

Goebel shared that he feels the City of Newport has handled the short-term rental item better than some other jurisdictions. Nebel shared that he wanted to thank Tokos, who has been married to this issue for a number of years now.

Botello inquired as to how many folks were on the waiting list? Tokos reported the numbers were in the low 80's, but at present the City has thirty-six available slots, renewals just took place so wait list folks are being contacted. we just did renewal and now we are reaching out to those on wait list. Tokos reported that the City was at forty-six or forty-eight waiting, but now only has thirty-six. Tokos advised that research found that sometimes it was folks who never fully acted, some who chose to no longer offer short term rentals, house is being sold, purchased with the intent to retire and they can now retire and no longer use it for short term rentals. He said the often times during a phone call to move off the wait list, folks are indicating they have houses rented long term, they are happy with those tenants and don't wish to move to short term rentals.

MOTION was made by Jacobi, seconded by Hall to move to initiate amendments to the City of Newport's Short-term Rental Regulations as recommended by the Short-Term Rental Ordinance Implementation Work Group and as detailed in draft Ordinance No. 2202, and refer the matter to the Planning Commission to hold one or more public hearings and provide a recommendation to the City Council on adoption of the code changes. The motion carried unanimously in a voice vote.

MOTION was made by Jacobi, seconded by Hall to move to further recommend Council concur with the administrative recommendations, including automating the annual renewal process for business license endorsements and payment of transient room taxes, implementing an auditing program, filling the budgeted code enforcement position for weekend coverage, and coordinate with the Municipal Court to identify steps to address adjudicated citations in a timely matter. The motion carried unanimously in a voice vote.

CITY MANAGER'S REPORT

Report on the Status of the Traffic Study for NW Oceanview Drive

Glover introduced the agenda item, Nebel presented the written City Manager Report saying at the October 3 Council meeting, the Council asked for an update on the traffic study for Oceanview Drive. At the September 6, 2022 Council meeting, staff provided a detailed summary of work the City has performed and the next steps to be taken, including the initiation of a request for proposals for traffic engineering expertise, to find ways to improve traffic and safety on Oceanview Drive for all modes of transportation. Funding was appropriated in the current year budget of \$150,000 to handle various traffic analyses that may be necessary through the course of the year. Two proposals were received on September 23 and the Engineering Department is going through its due diligence process to recommend a firm for award by the City Council. The work items will be done by task orders for each of the studies done. The first project that will be accomplished will be a comprehensive review of Oceanview Drive. It is anticipated that this contract will be awarded by Council at the November 7 City Council meeting. Both firms indicated that they could start on Oceanview Drive immediately after a contract is executed.

Recommendation: None.

Fiscal Effects: The City has appropriated \$150,000 for necessary traffic studies for this next fiscal year. The cost of the traffic study on Oceanview Drive could range between \$40,000 to \$70,000. This would be identified in a task order negotiated with the consultant retained by the City to address traffic study issues through the course of this fiscal year.

Alternatives: None recommended.

Collett spoke reporting that the Request for Proposal was released, as reported in the September 6, 2022 Council meeting, and sent to three firms. He shared two responded while Staff was in Washington D.C on the Big Creek Dam lobbying trip. Collett advised the scores are close, he expected the winning firm would be selected in the next few days. Collett reported the plan was to phase work, \$150,000 in budget for Engineering in general, but including Oceanview and other areas with accidents. Phase 2 would be all the other stuff.

Botello inquired as to if the full budget is \$150,000? Collett reported that was correct as Staff wasn't sure on price, phase 1 was from \$40,000-70,000 with Oceanview and next couple intersections first, and other tasks over rest of year. Botello inquired as to if priority is in areas with accidents? Collett reported yes, this is how they come to attention, one of which is off Benton, someone drove into a fence, City has been monitoring it and it seems critical enough, it is unique enough that the option to turn into a four-way intersection may be option, but Staff wanted study firms to evaluate them all and provide professional advice. Collett reported that the traffic study firm was also asked to look at evaluating City street related detail standard design, so that they are industry standard, folks are used to working with. Goebel inquired as to if the work was study only, or if it included public meetings? Collett shared the firms have different approaches, minimum was a City Council public education workshop, one bid proposed public meetings, but it was possible to be in scope of work, and the education is important either way.

Collett reported that if it comes back that a street on Oceanview Drive shouldn't have a stop sign, the City wanted other solutions presented. He shared that he requested the

responding firms were requested to drive Oceanview Drive, themselves, on site, in person, to see the conditions.

Jacobi thanked Collett for the effort, and shared that she saw a post placed on Oceanview Drive, will the installation of the radar speed sign have to wait until the traffic study comes back? Collett reported that the installation would not have to wait, it was an internal project. Jacobi reported that the post had been installed for over a month. Collett reported the sign install, is pending and will be installed when the install crew has time available. Nebel requested that a follow up with Chief Malloy take place. Collett reported that he expected the radar speed sign to be installed any day on Oceanview Drive.

Report on Feasibility for Infilling Sidewalk from Don and Ann Davis Park to Government Street Along Elizabeth Street.

Glover introduced the agenda item. Nebel presented the written City Manager Report saying Council Goal A-5(a) requested that a feasibility study be conducted to develop preliminary costs for infilling sidewalk from Don and Ann Davis Park to Government Street along Elizabeth Street. The Engineering Department has identified various options and has determined that providing infill on the west side of the road would be the most costeffective approach toward addressing a continuous walkway to this location. The estimated cost for this project would range from \$380,000 to \$570,000. This cost assessment does not include the cost for upgrading existing non-compliant sidewalks located on the west side of Elizabeth Street. Constructing sidewalk on the east side would be much more expensive due to topography issues requiring retaining walls and would require more much extensive sidewalk construction due to lack of sidewalks on the east side. If Council is interested in proceeding with the survey work, \$50,000 has been appropriated for design purposes in the current fiscal year. Additional funding would need to be appropriated to fully complete the design in this fiscal year. Council will need to consider ways to pay for the sidewalk, which could include appropriation of existing funding for potentially creating a local improvement district to help offset a portion of these costs. Following discussion by the Council of this report, we will bring more specific recommendations. If Council wants additional information on costs, we can provide that at a later meeting, as well.

Recommendation: None at this time.

Fiscal Effects: None.

Alternatives: Direct staff to seek proposals for design work relating to the infill sidewalk project, or as suggested by the City Council.

Beatty and Collett spoke on the proposal. In the written engineering report Beatty reported

No motion, informational report only. Per Council goal A-5(a) - Conduct feasibility and develop preliminary costs for infilling sidewalk from Don Davis Park to Government Street along Elizabeth Street. (Vision Strategy A11), the Engineering Department would like to inform City Council and Administration about the feasibility for sidewalk infill on SW Elizabeth Street, from Don Davis Park to SW Government Street.

The estimated cost for the project ranges from \$380,000 to \$570,000. Background Information: Current conditions on SW Elizabeth Street include two-way vehicle travel and parking on both sides of the roadway. Sidewalk is present on the east side of Elizabeth Street but only at scattered locations. Providing sidewalk infill on the east side would be much more expensive than infill on the west side. This is due to the overall length of sidewalk infill required and challenging terrain (retaining walls required) at some locations.

Sidewalk is present on the west side of Elizabeth from Don Davis Park to SW Park Street. Minimal sidewalk exists from SW Park Street to SW Government Street on the west side. Many areas of the existing sidewalk, driveways, and pedestrian ramps on the west side are not ADA compliant. For this feasibility study we felt that sidewalk infill on the west side of Elizabeth Street would be the most cost-effective approach since the project corridor for the west side would be much shorter in length than the corridor length on the east side. The conceptual cost estimate was prepared for sidewalk infill on the west side of Elizabeth Street from SW Park Street to SW Government Street only. Considerations and assumptions for the estimate are as follows: 1. The estimate did not include costs for upgrading existing, non-compliant infrastructure between Don Davis Park and SW Park Street. 2. The estimate includes survey and engineering services and bid items/quantities that were obtained from field investigation and conceptual drawings.

The estimate is based on 2022 prices. 4. The sidewalk on the west side would be 5' wide separated from the curb with a 4' wide planter to avoid utility pole relocations. 5. The right-of-way distance from the existing curb line is approx. 9' wide. Sidewalk easements may be required at some locations to provide clearance around existing utility poles. Fiscal Notes: This project (number 25-22035) for the fiscal year 2022 - 2023 has an adopted budget of \$50,000. This budget still remains as this feasibility study was prepared by City staff, so this budget is available if additional studies for alternatives listed below are desired by City Council. If no further studies are desired, the \$50,000 could be used to begin survey and design by an engineering consultant. The estimated cost for survey and engineering is approx. \$80,000. Additional funding would be required to complete that work.

Alternatives: 1. Design and construct the sidewalk on the east side of Elizabeth Street from SW Park Street to SW Government Street. These improvements would be nearly the same overall length as the west side, however would be less pedestrian friendly due to having to cross Elizabeth Street where the existing sidewalk terminates on the west side. Overall costs would be similar to the west side conceptual estimate. Finding a crossing location at an intersection would prove difficult due to existing hotel driveways on the west side. 2. Upgrade all non-compliant infrastructure on the west side of Elizabeth Street for Don Davis Park to SW Park Street along with the suggested improvements on the west side of Elizabeth from SW Park Street to SW Government Street. 3. Provide sidewalk infill on the east side of Elizabeth Street from Don Davis Park to SW Government Street. 4. Provide sidewalk infill on Elizabeth Street on both the west and east sides. 5. Do not move forward with the design and construction of the sidewalk infill project. For items 1 - 5 above, additional cost estimating may be required

Beatty reported that Engineering initially looked at the infill goal, on the west side primarily dealing with a lot of ramps, next to hotels etc. Beatty noted there were approximately twenty-five driveways that are not ADA compliant they are not included. He shared the east side was evaluated and it has few more complications having to cross from west side to east side, and challenged with retaining walls.

Parker reported the west side in his view, was the best use of funds crossing at the wide area on Elizabeth Street with connex containers there. Parker noted another is a right of way issue at the south end near Government street junction, with a telephone pole in the way to make it a gentler curve.

Jacobi inquired as to if Bicycle and Pedestrian Committee was going to be asked for input, a couple members had asked her about crosswalks. Beatty reported crosswalks

were included. Jacobi shared that maybe transit stops could be included. Beatty reported it was possible to look at that, Engineering anticipated a setback sidewalk due to utility poles, so they leaned towards moving sidewalk closer to houses as the better idea given the Right of Way is about nine foot from back of curb, four-foot planter with five foot sidewalk, which may require a sidewalk easement in a few areas. Jacobi inquired as to if any trees were going to be installed in the median? Beatty reported that this could be a consideration. Nebel advised that the City does not have the money for those kind of upgrades at present, and this project is not within an Urban Renewal District, and it was important to manage expectations here.

Nebel reported the suggestion was to do sidewalks first. Hall reported that she saw a challenge with areas not being paved, as it is a tourist area. Nebel reported that as it stands the City will have to stretch to find suitable funding, Local Improvement Districts can be considered for major projects. Hall shared she felt the scope is beyond a Local Improvement District, in her view it was tied to tourism in a big way via Lighthouse to Lighthouse Project, and the City is all underfilled on staff which would indicate funding may be available. Hall reported the section by the Shilo Inn didn't seem very safe.

Collett reported Beatty did the work in house saving the City funds, they were not expended, perhaps funds could be repurposed towards survey work and preliminary design? Nebel reported the discussion was about Council expectation for sidewalk on east or west side, and better numbers could be had for budget process. Collett reported that if Engineering obtained an updated design, a better cost estimate could be had.

Hall reported that she expected traffic increases with the new Whaler Motel. Parker reported that the City was still waiting for Integrated Pest Management plan, hoping that if all the money is spent on sidewalk, maintenance is considered.

Nebel reported that the City had some preliminary internal discussions on responsibility for maintenance etc. but is not super clear in the code. Nebel shared the City could clarify code or look at additional resources, if property owners are not responsible for the maintenance activity.

Nebel reported that he understood the Council consensus to be placement of the sidewalk on west side, with spot clean ups in a couple of areas. Botello inquired about how long it would take to get notices out? Nebel the reported an issue the City faces all the time is with folks putting stuff close to Right of Way lines, think we should contact all property owners to get feedback, as anytime we do things we haven't done before, it can cause neighborhood excitement. Beatty reported the west side is better as there are less cross streets too. Goebel inquired as to if the Staff thought it would be worthwhile to get the project shovel ready? Collett reported that he thought it would be good to maximize staff time elsewhere, use a straightforward Request for Proposal, as \$50,000 wouldn't cover full design but could go as far as possible. Collett shared if funding for survey, and preliminary work for thirty percent of the project that would be great, as the City could do outreach while awaiting funds.

LOCAL CONTRACT REVIEW BOARD

Notice of Intent to Award the Design and Construction Engineering Services Contract for a Water Treatment Plant Excess Recirculating System (XR) to Stantec Consulting Services, Inc. in the Amount of \$436,341.00

Glover introduced the agenda item, and Sawyer opened the Local Contract Review Board at 07:46 P.M. Nebel presented the written City Manager Report saying during the summer of 2020, the City experienced problems with the fouling of the microfiltration membranes which are used to filter raw water as part of the processes for creating safe drinking water for the City of Newport. The result was a critical shortage of water during the peak summer and demand in the city which required that the City of Newport limit all uses of water, and specifically, halt industrial use of water for a thirteen-day period. Two recommendations came out of the review of this water emergency. The first one was adding another bank of filters at the water treatment plant. This work has been completed. The second recommendation was to install an excess recirculation system (XR) that will allow optimal water flows and reduce the need for chemical cleanings. An XR system provides a surface scouring flow that allows the fibers to be cleaned from the outside to complement the existing inside out back wash cleaning process. Staff solicited competitive proposals from qualified engineering firms. Two proposals were received. They were evaluated for their response to the RFP.

The review indicated that the proposal from HDR Engineering was not as complete and responsive to the request. Further, the HDR team is not experienced with XR system retrofits. Their proposal also included minimal direct involvement from PALL Water who is the manufacturer of the microfiltration membranes. The concern with this proposal is that there may be additional costs and efficiencies that may be missed as part of the construction project that would proceed with this work.

Staff is recommending that the contract be awarded to Stantec Consulting Services for engineering services, including site surveying, design, construction engineering and inspection, testing, start up and commissioning of the project.

Recommendation: I recommend that the City Council, acting as the Local Contract review Board, consider the following motion: I move to issue a notice of intent to award the water treatment plant XR system design and construction management project to Stantec Consulting Services, Inc., in the amount of \$436,341 and contingent upon no protest within seven days authorize the award for the design and construction management project to install and direct the City Manager to execute the contract on behalf of the City of Newport.

Fiscal Effects: There are sufficient funds for the engineering services. The amount of \$749,750 is appropriated. Additional funds will be need to be appropriated for actual construction that will likely take place in Fiscal Year 2023-2024.

Alternatives: Do not award this contract to Stantec, or as suggested by the City Council.

Nebel reported the XR system is recirculating which is means more effective cleaning of filters, and helps to eliminate potential water production concerns.

Paul reported that this project was advertised on Oregon Buys, two responses were received one from Stantec and one from HDR. The review panel was cost blind, and evaluated based upon proposal, then cost. Paul reported Stantec scored highest on proposal score, and despite the higher cost the panel recommended they received the bid. Collett reported that the water curtailment took place under the right conditions, and

in theory it could happen again. His expectation was that that this would extend the life of the system by having more filters, and not abusing it. This particular system was already mentioned to the City by HDR and the newest installed unit already has the functionality built in.

Parker inquired as to if this replacement schedule is included in the water treatment plant master plan, and would new expense be impacted by any piping or rerouting of stuff when a potential new Big Creek Dam is installed. Collett reported that he didn't believe XR system would have been part of master plan, because that conditions that caused the failure and curtailment hadn't been experienced before, and suspected there shouldn't be any real major change with the new Dam installation. Paul reported that she thought it may involve a new pipeline, but the plant location will likely be fine. Nebel reported that initially the water plant project wanted to install these filters, but project scope had to be dialed back due to cost overruns. Parker inquired as to what the alternative of the XR system would be? Nebel reported the alternative is the water plant won't be able to make sufficient water. Collett reported this system is insurance against conditions which arose previously leading to a water curtailment.

MOTION was made by Goebel, seconded by Parker to move to issue a notice of intent to award the water treatment plant XR system design and construction management project to Stantec Consulting Services, Inc., in the amount of \$436,341 and contingent upon no protest within seven days authorize the award for the design and construction management project to install and direct the City Manager to execute the contract on behalf of the City of Newport. The motion carried unanimously in a voice vote. Sawyer closed the Local Contract Review Board at 07:57 P.M.

REPORT FROM MAYOR AND COUNCIL

Sawyer reported on recent Council attendance at the League of Oregon Cities Conference in Bend, Oregon, saying last week was wonderful and the Council learned a lot. Sawyer advised that the conference was well attended, by around 400 people from 200 Oregon cities, and another 200 in attendance for staff and vendors. Sawyer also advised that he was most excited to meet Councilor Jacobi's Sister.

Hall reported that she would like to Diversity, Equity and Inclusion conversations to a future City Council Work Session. She shared recent attendance in DEI sessions with Hawker and Botello, indicating that those conversations are something the City should be keeping updated on, and likely all working together towards over the next two years. Hall advised the League of Oregon Cities had a Diversity, Equity and Inclusion Library that may provide some good information. She added that she appreciated the combination of Tokos and Malloy serving as Acting City Manager for Nebel during the conference.

Nebel reported that Hawker won the Herman Kehrli award, and the League of Oregon Cities made two awards this year, due to the fact no awards were given out during Covid. He advised that Peggy's husband also was a Kehrli award winner in years past, and they are the only husband and wife duo ever to win the prestigious award.

Goebel advised that camping was no longer taking place on City Hall grounds, and was curious as to if the provided notice was the reason for that? Allen advised that it was because of the notice, and a discussion of the issues the group left.

Parker reported on the League of Oregon Cities Conference and sessions on homeless and housing saying that Newport does not operate at the same budgetary basis as Bend, Oregon. He advised that most of the presented scenarios are not currently applicable, but a discussion of tiny homes, or pallet houses seems feasible in Newport. Parker shared that some of the housing options were senior focused, Bend could serve as a potential template for Newport, and he requested personnel from Bend, Oregon be brought to Newport to present on the topic, at a future work session of the Council. Nebel reported that seemed possible, Jacobi is on the housing needs analysis group so it would seem to fit into that discussion.

Jacobi advised she went on a housing tour, including a site which was low barrier for felons and sex offenders who can't find anyone to rent to them. She advised she also attended another site, for Veterans at an eighteen-unit tiny home site, with a community room in the center, with a large kitchen and places to gather and an outdoor barbecue pit. Jacobi shared overall it was nice and tidy, the Housing Needs Analysis has a list of various actions which can be implemented, with an impact statement. She said tiny homes have a low impact on homeless because you can't build very many of them, they had eighteen in Bend. Botello advised it would be nice to talk about tiny houses going forward. Botello reported that community reach and engagement is important, and it would be nice to obtain information from the community on what media methods they want the City to utilize for outreach.

Sawyer reported that the Long Road Veterans group will be arriving in Newport towards the end of November, and all roads in Yellowstone National Park are finally reopened.

ADJOURNMENT

Having no further business, the meeting was adjourned at 08:11 P.M.

Derrick Tokos

From: DLCD Plan Amendments <plan.amendments@dlcd.oregon.gov>
Sent: Wednesday, November 23, 2022 4:43 PM
To: Derrick Tokos
Subject: Confirmation of PAPA Online submittal to DLCD

[WARNING] This message comes from an external organization. Be careful of embedded links.

Newport

Your notice of a proposed change to a comprehensive plan or land use regulation has been received by the Oregon Department of Land Conservation and Development.

Local File #: 5-Z-22

DLCD File #: [005-22](#)

Proposal Received: 11/23/2022

First Evidentiary Hearing: 1/9/2023

Final Hearing Date: 2/6/2023

Submitted by: dtokos

If you have any questions about this notice, please reply or send an email to plan.amendments@dlcd.oregon.gov.

Sherri Marineau

From: Sherri Marineau
Sent: Wednesday, December 21, 2022 5:07 PM
Subject: Notice of Public Hearing - Newport Short-Term Rental Ordinance Amendments
Attachments: File No. 5-Z-22 Notice.pdf

Importance: High

Hello,

You are receiving this notice because you have asked to be notified of any City of Newport Short-Term Rental issues.

On **Monday, January 9, 2023** the Newport Planning Commission will hold a public hearing at **6:00 p.m.** in the City Hall Council Chambers to consider draft Ordinance No. 2202 (File No. 5-Z-22), amendments to Newport Municipal Code (NMC) Chapter 4.25, Short-Term Rental Business License Endorsements; and Chapter 14.25, Short-Term Rental Land Use Regulations, implementing recommendations of the Short-Term Rental Ordinance Implementation Work Group. Revisions (a) add a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codify the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tighten up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a "strike" against the owner's short-term rental endorsement; and (d) eliminate the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution (locking it into the current 176 license limit). With respect to proposed amendments to NMC Chapter 14, Section 14.36.010 requires a finding that the amendments to the Newport Municipal Code are required by public necessity and the general welfare of the community.

Additional information is included on the City's website at: <https://www.newportoregon.gov/dept/cdd/default.asp>

You may also contact Derrick Tokos, Community Development Director (541) 574-0626 or d.tokos@newportoregon.gov with your questions.

City of Newport
 Community Development Department
 169 SW Coast Highway
 Newport, OR 97365



PUBLIC RECORDS LAW DISCLOSURE. This e-mail is a public record of the City of Newport, and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This e-mail is subject to the State Records Retention Schedule for Cities.

AFFIDAVIT OF MAILING OF NOTICE OF LAND USE ACTION

STATE OF OREGON)

)ss.

County of Lincoln)

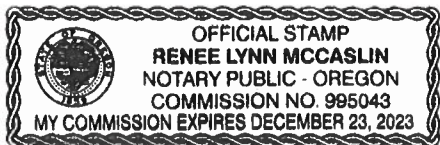
File No(s). 5-Z-22

I, Sherri Marineau, duly appointed Executive Assistant of the City of Newport, do hereby certify that the notice of a land use action attached hereto and by this reference made a part hereof is a true and complete copy of the original of such notice, and that said original was distributed through email on the *21st* day of *December, 2022* to each of the 286 persons that have asked the City of Newport to inform them of any proposed changes to the Short-Term Rental regulations. Email distribution list is included in the record.

Sherri Marineau

Sherri Marineau
Executive Assistant

SUBSCRIBED AND SWORN to before me this 5th day of January, 2023.



Renee McCaslin

Notary Public of Oregon

My Commission Expires: 12/23/23

CITY OF NEWPORT
NOTICE OF A PUBLIC HEARING

The Newport Planning Commission will hold a public hearing on Monday, January 9, 2023 at 6:00 p.m. in the City Hall Council Chambers to consider draft Ordinance No. 2202 (File No. 5-Z-22), amendments to Newport Municipal Code (NMC) Chapter 4.25, Short-Term Rental Business License Endorsements; and Chapter 14.25, Short-Term Rental Land Use Regulations, implementing recommendations of the Short-Term Rental Ordinance Implementation Work Group. Revisions (a) add a grace period for individuals or entities that purchase vacation rental properties in areas where they can immediately begin to use them for vacation rental purposes, so they can rent the property while working through the process to obtain a license; (b) codify the process the City is using to administer the waiting list for the issuance of short-term rental business license endorsements; (c) tighten up code violation language by noting that any act occurring on real property that results in a civil infraction, be it related to the short-term rental or not, is a “strike” against the owner’s short-term rental endorsement; and (d) eliminate the option in the ordinance that allows the City Council to adjust the cap on the number of available vacation rental licenses by resolution (locking it into the current 176 license limit). With respect to proposed amendments to NMC Chapter 14, Section 14.36.010 requires a finding that the amendments to the Newport Municipal Code are required by public necessity and the general welfare of the community. Testimony and evidence must be directed toward the request above or other criteria, including criteria within the Comprehensive Plan and its implementing ordinances, which the person believes to apply to the decision. Failure to raise an issue with sufficient specificity to afford the city and the parties an opportunity to respond to that issue precludes an appeal, including to the Land Use Board of Appeals, based on that issue. Testimony may be submitted in written or oral form. Oral testimony and written testimony will be taken during the course of the public hearing. The hearing may include a report by staff, testimony from the applicant and proponents, testimony from opponents, rebuttal by the applicant, and questions and deliberation by the Planning Commission. Written testimony sent to the Community Development (Planning) Department, City Hall, 169 SW Coast Hwy, Newport, OR 97365, must be received by 2:00 p.m. the day of the hearing to be included as part of the hearing or must be personally presented during testimony at the public hearing. The proposed code amendments, additional material for the amendments, and any other material in the file may be reviewed or a copy purchased at the Newport Community Development Department (address above). Contact Derrick Tokos, Community Development Director (541) 574-0626 (address above).

(FOR PUBLICATION ONCE ON WEDNESDAY, January 4, 2023)

1/4/2023

2A-3 Valley Coast Conference game Tuesday at home again. Monroe before they're slated to travel Friday for a league game at Oakridge.

Attachment "E"

5-Z-22

January 6, 2023

TO: All Members of the Newport Planning Commission

FROM: Cheryl S. Connell

RE: January 9 Meeting Agenda Item 5.C on File 5-Z-22

Dear Planning Commission Members,

I am writing to you as a 45 year resident of Newport to offer testimony and recommendations for your consideration regarding Draft Ordinance No. 2022- Short – Term Rental Work Group Recommendations.

--Proposed Code Change to 4.25.030, Addition of "30 Grace Period for New Owner to Obtain STR Business License Endorsement". This change would allow STRs in W2 and other zones pursuant to NMC 14.25.035 (A) (1) and which are about to transfer ownership to continue renting to guests immediately after change or ownership-- WITHOUT a license--for up to 30 days.

Recommendation: The Commission should not approve this proposed change, as it is not necessary and does not further the general welfare of the community as required per NMC 14.36.010. Instead, leave the current language in place as it is necessary and does further the general welfare of the community.

Rationale: 4.25.030 Section C. Approval Standards sets forth requirements to legally operate an STR that must be met in order to obtain and/or renew a business license endorsement. Two of them relate to guest safety as well as neighborhood/municipal safety. If a newly transferred STR is allowed to operate without a license, it means that the required Fire and Safety and Structural Safety checks have not been done/documented. Without it, there is no certainty that the STR meets these basic yet critical safety requirements. This lack of assurance places the new guests, as well as the neighboring houses or commercial area in which the STR is located, at risk. In addition, should the new property owner delay past the proposed 30 day grace period, the City does not have recourse to immediately make the property owner cease rental of the STR. The City would have through the citation process, and due to the property owners right to contest this action by the City, the City would likely end up in Municipal Court for adjudication causing further delays and continuing to place guests and neighboring areas at risk. Keeping the current language, therefore, is necessary and does further the general welfare of the community

--Proposed Code Change to 14.25.030 "Approval Standards (A) Density". This change places limits on the number of STRs only in the Vacation Rental Overlay at 176 dwelling units, down from the current limit of 200 dwelling units. New STRs could not be added until there were fewer than 176 licensed dwelling units in the Vacation Overlay Zone.

Recommendation: The Commission should not approve this proposed change. The limit should not be restricted only to STRs in the Vacation Overlay Zone. Instead, include both STRs INSIDE this Zone and

pg. 1 of 3

STRs OUTSIDE of this Zone as counted towards the 176 maximum count, as it is necessary and does further the general welfare of the community as required per NMC 14.36.010. Continue to not include home share (HS) or Bed and Breakfast (B&B) facilities in this number.

Rationale—The total number of STR's (not including HS or B&B) as of July 11, 2022 was 185 (see Attachment 1 to this document). Of the 185, 149 units are inside the Vacation Rental Overlay Zone and 36 units are outside the Vacation Rental Overlay Zone. The Short Term Rental Ordinance Implementation Work Group characterized the proposed 176 limit as a "hard cap". A true "hard cap" would include the 36 units outside the Overlay Zone in this total as these units are still operating as short term rentals. Yes, 185 units is over the proposed 176 limit. 185 total STR units is still a sustainable number to maintain a healthy balance in Newport. Another benefit is that inclusion of STRs outside the Overlay Zone in the 176 limit would create a de facto moratorium on new units being added to the City while the City works through improving its processes regarding the Workgroup's recommendations of STR fee collections, STR TRT auditing, Municipal Code enforcement and Municipal Court timeliness. These are just a few reasons why this recommendation is necessary and how it furthers the general welfare of the community.

Thank you for your attention to this matter.

Sincerely,



Cheryl S. Connell


Attachment 1- July 11, 2022 Tokos Memo to Short Term Rental Ordinance Implementation Work Group

Pg. 2 of 3

City of Newport

Community Development Department

Memorandum

To: Short-Term Rental Ordinance Implementation Work Group
 From: Derrick I. Tokos, AICP, Community Development Director 
 Date: July 11, 2022
 Re: Update on Licensed Short-Term Rentals, Cap, and Waitlist

Enclosed is a list and summary table of licensed short-term rentals as of July 7, 2022. At this time, there are 193 licensed short-term rentals inside the city limits. Of that number, 149 are vacation rental dwellings inside the overlay, 36 are vacation rentals outside the overlay, and eight (8) are B&Bs or home shares. The City imposed a 176-license cap inside the overlay with Resolution No. 3850, when the current short-term rental regulation was put in place in May of 2019 with the passage of Ordinance No. 2144.

There is a group of formerly licensed vacation rental properties inside the overlay that count against the cap number. They include nine (9) properties that were non-conforming, having been established before Ordinance No. 2144 was adopted, and as non-conforming uses they must be discontinued for 12 consecutive months before the right to operate a vacation rental is extinguished. One additional unit is within or adjacent to commercial zoned property and the new owners have 12 months to obtain their license.

A total of 23 licenses were made available last fall to properties on the waiting list. Six (6) of those owners have completed the licensing process, seven (7) applied by the November 30, 2021 deadline and are working through the process of obtaining a license, and 10 did not apply by the November deadline. Those 10 license slots will be held over until the next renewal period closes, creating another licensing window (i.e. August 15, 2022). There are presently 78 properties on the waitlist, a few of which may not meet all of the City's standards (e.g. there might already be another vacation rental building on the street segment). We have also learned from experience that some on the waitlist may no longer be interested in a vacation rental license. That said, as things stand, it will likely take 3-4 years for a property owner on the waitlist to be in a position to obtain a license.

For property outside of the overlay, the number of units has dropped from 45 to 36 licenses since November of 2019. There are presently two (2) licensed B&Bs, and six (6) licensed homeshares in the city.

A searchable database of licensed short-term rentals is available on the City's website at:
<https://www.newportoregon.gov/dept/cdd/str.asp>

Attachments:

List and summary table of short-term rentals
 Status of licenses offered to properties on the waitlist

ATTACHMENT 1 CONNELL TO
 NEWPORT PLANNING COMMISSION
 JANUARY 6, 2023

pg 3 of 3

Draft MINUTES
City of Newport Planning Commission
Work Session
Newport City Hall Council Chambers
January 23, 2023
6:00 p.m.

Planning Commissioners Present: Bill Branigan, Jim Patrick, Bob Berman, Braulio Escobar, Jim Hanselman, and John Updike.

Planning Commissioners Absent: Gary East (*excused*).

PC Citizens Advisory Committee Members Present: Dustin Capri (*by video*), and Greg Sutton.

City Staff Present: Community Development Director (CDD), Derrick Tokos; and Executive Assistant, Sherri Marineau.

1. **Call to Order.** Chair Branigan called the Planning Commission work session to order at 6:00 p.m.
2. **New Business.**

A. **Review of Ordinance No. 2202, Implementing Short-Term Rental Ordinance Implementation Work Group Recommendations.** Tokos reviewed the staff memorandum and acknowledged the comments received from Cheryl Connell, the Fire Department, and the Finance Department. He reviewed the hotel/motel procedures and inspection protocols. Tokos then reviewed the request to add language on imposing a hard deadline for a phase out on vacation rentals outside of the overlay zone. He explained they couldn't add the hard deadline into the short term rental ordinance because that would affect the allowed uses of a property, which required a Measure 56 notice. Tokos noted if the Commission wanted to do this, they would have to do it by motion to prepare a separate ordinance. They couldn't comele it with the Work Group's recommendations because a Measure 56 notice wasn't provided or required for the January 9, 2023 hearing. Tokos reported there were two members of the Work Group, Sandra Roumagoux and Jamie Michel, were in attendance at the meeting to answer questions.

Escobar wanted to hear from the Work Group to get their feedback on their recommendations. He also wanted Cheryl Connell to talk to the Commission about the concerns she raised about the overlay. Escobar also wanted to hear about the overlay and number of Short-Term Rental (STR) licenses, and the automatic extension of STR licenses to new owners.

Berman thought they needed to pursue the 10 year phase out. When reading the 2019 City Council minutes he speculated that this clause was not included because the Council had discussed in an executive session that there would be potential for a Measure 49 claim and that scared them off. Berman stated that the ordinance affected everybody in Newport but there hadn't been any Measure 49 claims. He suggested that the Commission set this aside now, because Measure 49 specifically said that there was only five years to file a claim from the time that the land use regulation was put in effect, which was done in 2019. Berman thought they should look at it the next year. If at that time there were no Measure 49 claims for anything having to do with STRs, they should take a look at it again.

Hanselman stated he didn't necessarily disagree with Berman. Listening to what Tokos said about what they could do within the law, they couldn't put in a time limit. Tokos clarified that they couldn't add the phase out to the ordinance that the Work Group forwarded. The statute was clear that if they were moving an ordinance forward that would have the effect of prohibiting a use that was otherwise allowed, which a hard phase out would do, then they were obligated to provide a very specific Measure 56 notice before the first hearing. The notice was intended to alarm people when government agencies were looking to prohibit use, and get them to show up at a hearing. Tokos explained if the Commission wanted to do a hard numbered phase out, they would have to do a motion to have staff prepare an ordinance and provide the required notice. Hanselman thought that under these guidelines he could drop the idea of phase out timeline because the Council and City Attorney wouldn't want to go that way. He suggested they do something like Connell listed as A1 and A2 and throw out what the Council looked at previously. He thought it would be appropriate to count all STRs in Newport under the cap number, regardless of where they were located. Hanselman thought that when the overlay was created, the whole concept was that this zone was where they should be, and STRs didn't belong in other areas of the city. Hanselman thought 176 was the cap number that they needed to strive to get to. He noted the numbers reported in July showed 149 in the overlay and 36 outside, which was beyond the cap. Hanselman thought they shouldn't award any new licenses until the numbers went under 176 overall. Berman asked for clarification on how many licenses there were in the overlay. Tokos reported there were around 140 and there was a number of properties currently working to get their licenses. There was an annual opening of licenses after license renewals were completed. This trended in a number of openings of somewhere in the mid-20s. Tokos reported the waitlist currently had 77 on the list and they worked down the list to offer licenses. Tokos reported the city had been at the 176 cap number in the overlay zone since shortly after the 2019 adoption. A discussion ensued regarding how the city worked through offering open licenses and how properties worked to get their licenses issued.

Escobar asked if Berman would want to table everything until next year. Berman only wanted to take the phase out off of the discussion. Hanselman thought that changing the overall number of STRs in the city to just 176 would slowly make the ones outside of the zone disappear. He thought there should never be more than 176 overall. He reminded that there was a housing shortage and this would help. Escobar asked that the members of the Work Group in attendance speak to this. Tokos clarified the 176 number was set by Council resolution on the day the ordinance was adopted. At that time the city looked at how much of the housing stock was tied up in seasonal housing, both citywide and in the overlay zone. The 176 was a numeric equivalent of what was a percentage allocation of housing within the overlay that was used as vacation rentals. The council didn't want to see the percentage of housing in vacation rentals within the overlay increase and set 176 as the cap by resolution. They found it was close to what they had licensed at that time. The Work Group felt it would be inappropriate for the Council to adjust by resolution the 176 number to anything else. They now wanted it hardwired to just 176. Tokos noted if they went by Hanselman's suggestion to restrict to 176 overall, this would reduce the number by 36 and they would have to ask themselves what their policy rationale was for this. Hanselman reminded that he wasn't asking them to reduce the number of licenses. He just didn't think they should pass out anymore licenses until the overall number of 185 licenses was reduced to 176. Escobar thought the STRs outside of the overlay were slowly going away. Hanselman noted that was the agreement that those outside of the overlay would go away over time. By going the way he suggested it would limit the STRs in town to 176 and it would remain over that until a number of STRs disappeared.

Patrick thought that Hanselman was changing how this was interpreted and how the actions by which people made their decisions within the last four years. Regardless of how it was framed, this would take 36 licenses away. Patrick thought that if they did this they would get hammered, and he didn't

think this would even make it past the Council anyway. He thought the process was working and they should stick to the things they could affect. The rules were working and they were already reducing licenses by setting a hard number. Hanselman didn't have any faith that the Council or City Attorney would do any kind of phase out. Escobar reminded that this might be an issue where politicians were behind the will of the people. Patrick reminded that there had been a group that already hashed this out where there was representation on both sides. He thought they were better off going with what the Work Group recommended. They didn't want to hash it out anymore because they had already done the work. Patrick thought they should go with setting the number as 176 and making it so they couldn't raise it over that number. He was okay with allowing the 30 day grace period. Patrick noted that Newport had a second home problem, not a STR problem, and this would continue. Escobar asked to hear from the Work Group members.

Jamie Michel addressed the Commission. Branigan asked for an overview of what the original discussion were about phasing out over 10 years, the discussion on the 30 day grace period for new owners, and there being more than 176 STRs in the city limits. Michel reported that the Work Group talked about tying the cap to a percentage of housing. She was in favor of this. They set the cap with the understanding that they would be building up to that number within the overlay as others fell off outside of the overlay. Michel thought it was a good sign that STRs outside of the overlay zone had fallen off. She thought that by putting the ordinance in place and letting it do its jobs, they could come back to it to do adjustments at a later date. If they let the attrition start happening naturally, they would see that the economy would slow things.

Seth Schuepbach joined the meeting and asked if the 176 units had to do with the Embarcadero rentals. Tokos explained the Embarcadero operated a hotel where the units that were managed on the hotel side were not affected by this. It only applied to the small number of owners who were seeking to manage their rentals on their own without using the hotel management. Berman asked if the 12 units at the Embarcadero were included the cap number. Tokos reported they were.

Sandy Roumagoux addressed the Commission. She explained how the Work Group had angst over what the Commission was discussing since 2019. She thought it was good to see vacation rentals outside the overlay slowly phase out, and that they should give the ordinance time to work. Roumagoux noted that when the Work Group discussed setting the number to 176 they were concerned that there would be a gray area if there was a number range. They thought that having a set number to work against was good. Escobar thanked her and thought it was important to hear from the Work Group. He remember how contentious it was when the original advisory committee was working on this. Roumagoux reminded that they heard from a large number of the public and thought this helped.

Cheryl Connell addressed the Commission. She reported she served on the original ad hoc committee. In terms of her comments on the 176 cap, the two to three percent of the housing stock at the time that could be used for vacation rentals was deemed at that point to not adversely affect the ability of the community to support housing for long term residents. Connell understood that the vacancy rate for Newport was close to zero and reported the property managers had told her that people were saying they couldn't find places to rent. She thought they needed to reconsider 176 being established as the two to three percent of housing and ask if Newport could handle the kind of use that went to STRs. Connell noted that there have been rentals outside of the overlay that have gone away because they sold and no longer could be used as vacation rentals. One of the things that spurred the transfer of ownership in the last two or three years was the hot real estate market. This had changed and Connell didn't see that kind of attrition rate happening currently because the housing market had softened. Berman asked if she was saying the 176 should be defined as a hard cap for the city limits or if they

should continue with the number in the overlay zone. Connell wanted them to make 176 the total number of STRs for the city limits. Currently, the city was over the 176 number granted. If they did this it would basically make a de facto moratorium so there would not be the ability for any new vacation rentals to be licensed until they got to the 176 cap. Connell thought the recommendations that included getting the Municipal Court to deal with notices of violations in a more timely fashion, figuring out what the transient room tax was, doing audits, and building a quality system for the city to make sure they're getting the revenue in a timely fashion were important. Without allowing more STRs to come on board it would give the city breathing room because there would be no new STRs to on board and allow the city to devote time to the STRs that were operating. Then they could work on what the Work Group recommended to get the processes up to date.

Patrick noted that over the last four years they were losing 3.5 units, and if the train of thought was to have this done in 10 years, the trend for houses was on track to meet it currently. Escobar asked if the goal of the current policy was to eliminate the STRs outside of the overlay zone. Patrick said yes, by attrition. He cautioned the Commission that they shouldn't go anywhere near using the word moratorium because if they said this, they would lose in court. Tokos reminded the three ways properties were phasing out were through the sale of the property, people retiring and moving into units, and people who no longer wanted to do a STR and gave up their licenses. Berman asked what Tokos thought on the rate of this continuing in the next few years. Tokos thought the numbers would slowly go down but felt there were some owners who would want to continue renting for some time.

Branigan asked for the Commission's thought on the 30 day grace period. Berman thought this made logical business sense and noted that this subject didn't come up for other businesses. He didn't think it was fair not to allow this. If they went over the 30 day grace period it would then become a problem. Escobar was opposed to anyone operating without a license. He thought whenever a property was sold the license should go to another property on the list. Berman reminded the ordinance was written to say that if the property was in or adjacent to water or commercial zones they would be transferable. Tokos added that units in the C-2 zone that were developed as tourist oriented facilities were what lead to this language in the code. Updike was good with the grace period. He appreciated the input from the Fire and Finance Departments and thought they addressed some of the concerns that were raised.

Hanselman asked how often the STRs were inspected. Tokos reported only on change of ownership, if there was a significant modification on the unit, or if there were complaints. Hanselman wanted to see the unit inspected before it was sold to make sure it was safe. Tokos reminded that city wasn't involved with real-estate transactions. There was no way to do this. The code was drafted so that the units would go through the inspections when they went through a change of ownership, when there was a significant modification in the structure, or when there was a complaint. When there was a change of ownership an inspection always happened. Updike thought they needed to be realistic about the process.

Branigan recommended continuing the discussion during the regular session meeting. Tokos suggested the Commission take the ordinance as drafted to the hearing, do a vote on it, and see where it landed. If it didn't clear, the Commission could always redirect it back to a work session.

B. FY 23/24 Goal Setting Session. No discussion was heard.

2. Unfinished Business.

A. Planning Commission Work Program Update. No discussion was heard.

3. **Adjourn.** The meeting adjourned at 7:03 p.m.

Respectfully submitted,

Sherri Marineau,
Executive Assistant